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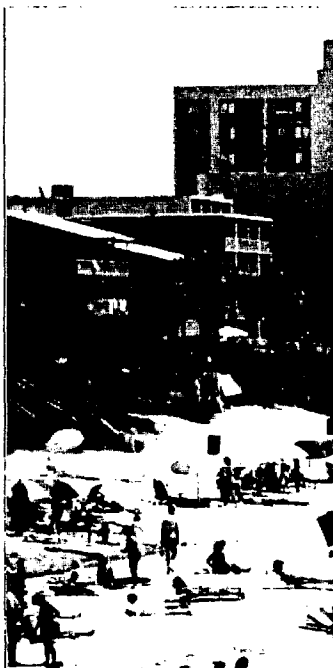
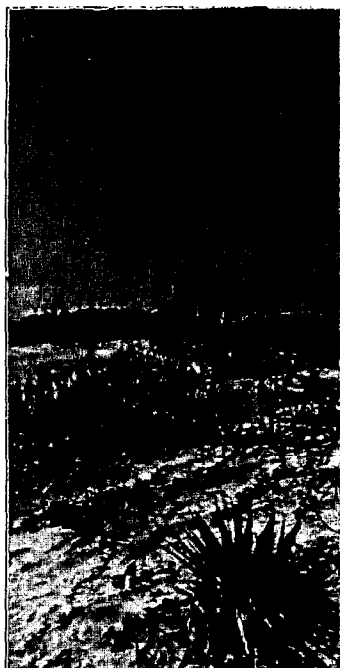
South Carolina Coastal Council

# Regulations

for permitting in critical areas  
of the state's coastal zone

May 1991

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**FOR ADDITIONAL INFORMATION:**

Should you have questions regarding this document or any other aspect of the South Carolina Coastal Council or South Carolina's Coastal Zone Management Program, please contact the Coastal Council at one of their four offices:

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*Chapter 30, R.30-1 - 30-14, South Carolina Coastal Council. Statutory Authority: Sections 48-39-10 - 48-39-360, Code of Laws of South Carolina, 1976, as amended.*

### **30-1. STATEMENT OF POLICY.**

The South Carolina Coastal Management Act was passed by the 1977 General Assembly of South Carolina to provide for the protection and enhancement of the State's coastal resources. This legislation creates the South Carolina Coastal Council which is given the task of promoting the economic and social welfare of the citizens of this State while protecting the sensitive and fragile areas in the coastal counties and promoting sound development of coastal resources.

Through the efforts of an overall coastal zone management program and permitting process, the Coastal Council seeks to guide the wise preservation and utilization of coastal resources. These rules and regulations are intended to:

- (1) aid developers and others in taking advantage of state-of-the-art techniques in developing projects compatible with the natural environment;
- (2) insure consistent permit evaluations by Council and staff; and
- (3) serve as a stimulus for implementation of better and more consistent management efforts for the coastal zone.

These regulations are Coastal Council statements of general public applicability that implement and prescribe policy and practice requirements of the Coastal Council. They are to be read as part of, and to be construed with, the policies set forth in the South Carolina Coastal Management Program.

#### **A. The Value of Tidelands and Coastal Waters.**

The tidelands and coastal waters of the South Carolina coast are a very dynamic ecosystem and an extremely valuable natural resource for the people of the State. The tides regularly ebb and flood through the coastal inlets, bays and marshes which constitute a fragile area, vulnerable to the impacts of many of man's activities. Tidelands and coastal waters are identified as "critical areas" over which the Coastal Council has direct permitting authority.

The saline marshes are highly productive components of the marine food web of coastal waters and estuaries. Decaying plant materials, called detritus, serve as the basis of the food web and are the major biological contribution of the saline marshes. Many commercially and recreationally important fish and shellfish species depend on the marshlands and estuaries for all or part of their life cycle. In addition, many birds and other forms of wildlife utilize wetlands as habitat as well as a source of food. Tidelands and coastal waters also have become increasingly important in recent years for the purposes of aquaculture.

Among the more important functions of the salt and brackish marshes is their role in protecting adjacent highlands from erosion and storm damage. Marsh vegetation absorbs and dissipates wave energy and establishes a root system which stabilizes the soils. Its effectiveness as a buffer depends on the surface area available which, combined with the composition of the underlying substrate, allows tidelands to act as "sponges," absorbing and releasing waters during storms or times of heavy riverine discharge.

Marshes also perform a valuable waste treatment function since the dense vegetation acts as a filter, trapping sediments and pollutants which enter as run-off from the upland areas. The trapping of sediments helps maintain water clarity, a factor important to clam, oyster, and phytoplankton productivity. The marshes also assimilate pollutants and recycle nutrients through various biochemical processes.

Coastal waters and the adjacent marshes are also significant as aesthetic, recreational and educational resources. Much of the expenditure for recreation and tourism in the South Carolina coastal zone is for purposes of enjoying outdoor activities and the aesthetic pleasures of undisturbed tideland areas. These natural areas lend themselves to meaningful and important academic pursuits such as bird-watching and wildlife population and nutrient recycling studies.

These same unique natural resource areas face increasing land development pressure and negative impacts from man's activities in and around them. The marshes constitute a fragile ecosystem; consequently, indiscriminate dredging and filling, degradation of water quality or unsound building and development practices can have long-term detrimental effects. All development need not be prohibited; rather, the range of favorable and unfavorable results needs to be realized, and analysis made to determine priorities, evaluate alternatives, anticipate impacts, and suggest the best methods and designs to carry out wise development of these resources.

#### **B. The Value of Beaches and Dunes.**

In 1977, the South Carolina General Assembly enacted the Coastal Tidelands and Wetlands Act (Coastal Zone Management Act) to protect, preserve, restore and enhance the coastal resources of South Carolina. The Act created a new state agency, the South Carolina Coastal Council, and charged it with the responsibility of administering and enforcing the statute. This legislation, however, proved ineffective for managing the beach/dune system because regulatory authority over these areas given to the Coastal Council was not sufficient. From the State's beaches, Coastal Council could regulate landward only to the primary oceanfront sand dune or to the highest uprush of the waves where no such dune existed.

Lacking adequate authority, the Coastal Council was unable to prevent structures from being sited unwisely close to the eroding shore, thus making them extremely vulnerable to the effects of storms and high tides. The owners of the structures, in most instances, quickly sought permits from the Coastal Council to construct hard erosion control devices in order to protect their erosion threatened structures. Unfortunately, hard erosion control devices can result in increased erosion, a lowering of the beach profile (thereby reducing the beach/dune system's tourist and recreational value), and a decrease in the ability of the beach/dune system to protect upland property from storms and high tides. Often the result of attempting to protect upland property with hard erosion control structures is that dry sand beaches disappear, thereby placing many millions of tourist dollars in jeopardy and destroying this natural legacy for future generations.

In 1986, the Blue Ribbon Committee on Beachfront Management was formed in response to the growing recognition that existing law was inadequate to protect the fragile beach/dune resource. The Committee determined that the beach/dune system of the State was in a state of crisis. The report concluded that "over fifty-seven miles of our beaches are critically eroding. This erosion is threatening the continued existence of our beach/dune system and thereby threatening life, property, the tourist industry, vital State and local revenue, marine habitat, and a national treasure". The 1988 Beachfront Management Act was enacted by the South Carolina General Assembly in response to the concerns presented in this report.

It has been clearly demonstrated that the erosion problems of this State are caused by a persistent rise in sea level, a lack of comprehensive beach management planning, and poorly planned oceanfront development, including construction of hard erosion control structures, which encroach upon the beach/dune system. Sea level rise in this century is a



scientifically documented fact. Our shoreline is suffering from its effects today. Moreover, a 1983 study conducted by the U. S. Environmental Protection Agency predicts a one foot rise in sea level over the next thirty to forty years and approximately three feet over the next hundred years. It must be accepted that regardless of attempts to forestall the process, the Atlantic Ocean, as a result of sea level rise and periodic storms, is ultimately going to force those who have built too near the beachfront to retreat.

There are three basic approaches to beachfront management:

- (1) armor the beach with hard erosion control devices;
- (2) nourish the beach with sand;
- (3) retreat from the beach.

The 1977 Coastal Zone Management Act, as amended, rejects construction of new erosion control devices and adopts retreat and renourishment as the basic state policy towards preserving and restoring the beaches of our state. The Coastal Council, as steward of the State's coastal resources, has the responsibility under the new statute to implement the forty-year retreat policy by designating a baseline and setback line on all oceanfront properties of the State, developing a long-range comprehensive State plan for management of the beach/dune resource, and supporting the efforts of local governments in developing local long-range beach management plans. In addition, the Coastal Council shall require property owners to move new construction and reconstruction as far landward as possible, to limit the size of structures within the constraints of the Act, and to seek innovative ways to ameliorate the effects of beach erosion.

In the final analysis, the long-range public good is the same as the long-range private good. If the dry sand beaches of this State disappear because of the failure of its people and governmental natural resource managers to protect the beach/dune system, future generations will never have the opportunity to use and enjoy this valuable resource.

#### **C. Definitions:**

1. Barrier Islands - There is a listing of all barrier islands in South Carolina on page III-70 of the South Carolina Coastal Management Program.
2. Coastal Waters - the navigable waters of the United States subject to the ebb and flood of the tide and which are saline waters, shoreward to their mean high-water mark.
3. Coastal Zone - all coastal waters and submerged lands seaward to the State's jurisdictional limits and all lands and waters in the counties of the State which contain any one or more of the critical areas. These counties are Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Jasper, and Georgetown.
4. Critical Areas - any of the following: (1) coastal waters, (2) tidelands, (3) beach/dune systems.
5. Erosion Control Structures and Beach Nourishment:
  - (a) Seawall - a special type of retaining wall that is specifically designed to withstand wave forces.
  - (b) Bulkhead - a retaining wall designed to retain fill material, but not to withstand wave forces on an exposed shoreline.
  - (c) Revetment - a sloping structure built along an escarpment or in front of a bulkhead to protect the shoreline or bulkhead from erosion.
  - (d) Groin - a shore protection structure designed to build a protective beach or to retard erosion of an existing or restored beach by trapping littoral drift. Groins are usually perpendicular to the shore and extend from the shoreline into the water far enough to accomplish their purpose. Groins are narrow and vary in length from less than 100 feet to several

hundred feet.

(e) Jetty - a structure extending into the water to direct and confine river or tidal flow into a channel and to prevent or reduce shoaling of the channel by littoral material. Jetties also stabilize inlet location.

(f) Minor Development Activity - the construction, maintenance, repair or alteration of any private pier or erosion control structure, the construction of which does not involve dredging.

(g) Offshore Breakwater - a structure designed to protect an area from wave action. Breakwaters interfere with natural wave action and wave induced currents; therefore, their construction may cause harmful side effects.

(h) Beach Nourishment - the artificial establishment and periodic renourishment of a beach with sand that is compatible with the beach in such a way as to create a dry sand beach at all stages of the tide.

6. Feasible (feasibility) - As used within these rules and regulations (e.g., "unless no feasible alternative exists"), feasibility is determined by the Coastal Council with respect to individual project proposals. Feasibility in each case is based on the best available information, including, but not limited to, technical input from relevant agencies with expertise in the subject area, and consideration of factors of environmental, economic, social, legal and technological suitability of the proposed activity and its alternatives. Use of this word includes, but is not limited to, the concept of reasonableness and likelihood of success in achieving the project goal or purpose. "Feasible alternatives" applies both to locations or sites and to methods of design or construction, and includes a "no action" alternative.

7. GAPC (Geographic Areas of Particular Concern) - areas within South Carolina's coastal zone which have been identified in the State's Coastal Management Program as being of such importance as to merit special consideration during Council review of permit applications. GAPC's consist of: (1) areas of unique natural resource value; (2) areas where activities, development, or facilities depend on proximity to coastal waters, in terms of use or access; and (3) areas of special historical, archeological or cultural significance.

8. Joint Public Notice - a permit application public notice issued jointly between the South Carolina Coastal Council and the United States Army Corps of Engineers or the United States Coast Guard and processed independently by the Coastal Council.

9. Nonwater-dependent - a facility which cannot demonstrate that dependence on, use of, or access to coastal waters is vital to the functioning of its primary activity.

10. Previously Undisturbed Wetlands - those wetlands having no visible, physical evidence of previous impoundment; that is, separation from adjacent rivers or estuaries by artificial diking

11. Public Interest - As used within these Rules and Regulations, public interest refers to the beneficial and adverse impacts and effects of a project upon members of the general public, especially residents of South Carolina who are not the owners and/or developers of the project. To the extent that, in the opinion of the Council, the value of such public benefits is greater than the public costs embodied in adverse environmental, economic and fiscal effects, a proposed project may be credited with net public benefits.

12. Tidelands - all areas which are at or below mean high tide and coastal wetlands, mudflats, and similar areas that are contiguous or adjacent to coastal waters and are an integral part of the estuarine systems involved. Coastal wetlands include marshes, mudflats, and shallows and means those areas periodically inundated by saline waters whether or not the

saline waters reach the area naturally or through artificial water courses and those areas that are normally characterized by the prevalence of saline water vegetation capable of growth and reproduction. Provided, however, nothing in this definition shall apply to wetland areas that are not an integral part of an estuarine system. Further, until such time as the exact geographic extent of this definition can be scientifically determined, the Council shall have the authority to designate its approximate geographic extent.

13. Water-dependent - a facility which can demonstrate that dependence on, use of, or access to coastal waters is vital to the functioning of its primary activity.

14. Marinas - facilities that provide boat launchings, storage, moorage, supplies, and/or services. There are three basic types of marinas: (a) the open water type where open pilings and/or appurtenances are used; (b) the inland harbor type where moorings are provided in a lagoon connected to navigable waters; (c) the dry storage type where boats are stored in specially designed warehouses placed entirely on high land.

15. Habitable Structure - a structure suitable for human habitation including, but not limited to, single or multi-family residences, hotels, condominium buildings, and buildings for commercial purposes. Each building of a condominium regime is considered a separate habitable structure, but if a building is divided into apartments, then the entire building, not the individual apartment is considered a single habitable structure. Additionally, a habitable structure includes porches, gazebos, and other attached improvements.

16. Master Plan - a document or a map prepared by a developer or a city as a policy guide to decisions about the physical development of the project or community.

17. Planned Development - a development plan which has received local approval for a specified number of dwelling and other units. The siting and size of structures and amenities are specified or restricted within the approval. This term specifically references multi-family or commercial projects not otherwise referenced by the terms master plan or planned unit development.

18. Planned Unit Development - a residential, commercial, or industrial development, or all three, designed as a unit and approved in writing by local government.

19. Beach/Dune System - all land from the mean high-water mark of the Atlantic Ocean landward to the 40 year setback line described in §48-39-280.

20. Standard Erosion Zone - a segment of shoreline which is subject to essentially the same set of coastal processes, has a fairly constant range of profiles and sediment characteristics, and is not directly influenced by tidal inlets or associated inlet shoals.

21. Inlet Erosion Zone - a segment of shoreline along or adjacent to tidal inlets which is directly influenced by the inlet and its associated shoals.

(a) Unstabilized Inlets - inlets that have not been stabilized by jetties, terminal groins, or other structures.

(b) Stabilized Inlets - inlets that have been stabilized by jetties, terminal groins, or other structures.

22. Baselines:

(a) Within a standard erosion zone the baseline is established at the location of the crest of the primary oceanfront sand dune in that zone. In a standard erosion zone in which the shoreline has been altered naturally or artificially by the construction of erosion control devices, groins, or other man-made alterations, the baselines must be established by the Coastal Council using the best scientific and historical data, as where the crest of the primary ocean

front sand dune for that zone would be located if the shoreline had not been altered.

(b) Within an unstabilized inlet zone the baseline must be determined by the Coastal Council as the most landward point of erosion at anytime during the past forty years, unless the best available scientific and historical data of the inlet and adjacent beaches indicate that the shoreline is unlikely to return to its former position. In collecting and utilizing the best scientific and historical data available for the implementation of the retreat policy, the Coastal Council as part of the State Comprehensive Beach Management Plan provided for in this chapter, among other factors, must consider: historical inlet migration, inlet stability, channel and ebb tidal delta changes, the effects of sediment bypassing on shorelines adjacent to the inlets, and the effects of nearby beach restoration project on inlet sediment budgets.

(c) Within a stabilized inlet zone the baseline location must be determined in the same manner as provided for in a standard erosion zone. However the actual location of the crest of the primary oceanfront sand dune of that erosion zone is the baseline of that zone, not the location if the inlet had remained unstabilized.

23. Setback Line - the line landward of the baseline that is established at a distance which is forty times the average annual erosion rate as determined by historical and other scientific means and adopted by the Coastal Council in the State Comprehensive Beach Management Plan. However, all setback lines shall be established no less than twenty feet landward of the baseline, even in cases where the shoreline has been stable or has experienced net accretion over the past forty years.

24. Garage - a structure built and used for the purpose of parking and protecting vehicles. The structure may be open or enclosed. An open parking area under a habitable structure will not be counted when computing the square footage of a habitable structure.

25. Normal Maintenance and Repair - work performed on any structure within the critical area as part of a routine and ongoing program to maintain the integrity of the structure provided that the structure is still generally intact and functional in its present condition and the work only extends to the original dimensions of the structure. See R.30-5(D).

26. Destroyed Beyond Repair:

(a) Habitable Structures - destroyed beyond repair means more than sixty-six and two-thirds percent of the replacement value of the habitable structure has been destroyed. See R.30-14(D)(3)(a).

(b) Pools - destroyed beyond repair means more than sixty-six and two-thirds percent of the replacement value of the pool has been destroyed. See R.30-14(D)(3)(b).

(c) Seawalls and Bulkheads - damage to seawalls and bulkheads must be judged on the percentage of the structure remaining intact at the time of the damage assessment. Erosion control structures or devices must not be repaired or replaced if destroyed:

(i) more than eighty percent above grade through June 30, 1995;

(ii) more than sixty-six and two-thirds percent above grade from July 1, 1995, through June 30, 2005;

(iii) more than fifty percent above grade after June 30, 2005. See R.30-14(D)(3)(c).

(d) Revetments - must be judged on the extent of displacement of the stone, effort to return this stone to the pre-storm event configuration of the structure or device, and the ability of the revetment to retain backfill material at the time of the damage assessment. See R.30-14(D)(3)(d).

27. Emergency Repairs - repairs due to emergencies as defined in Section 48-39-10(U) to an existing bank, dike, fishing pier, or structure other than ocean front erosion control structures or devices which have been erected in accordance with federal and state laws or provided for

by general law or acts passed by the General Assembly, if notice is given in writing to the Coastal Council within 72 hours of the onset of the needed repair.

28. **Emergency Orders** - orders issued by an appointed official of a county or municipality or of the state acting to protect the public health and safety, upon written notification to the Coastal Council. However, with regard to the beach/dune critical area, only the use of sand bags, sand scraping, or renourishment, or a combination of them, in accordance with guidelines provided by the Coastal Council is allowed pursuant to emergency orders.

29. **Best Management Practices** - measures to reduce adverse environmental impacts.

30. **Coastal Council** - designation for South Carolina Coastal Council.

31. **Pool** - a structure designed and used for swimming and wading.

32. **Active Beach** - the area seaward of the escarpment or the first line of stable natural vegetation, whichever first occurs, measured from the ocean landward.

### **30-2. APPLYING FOR A PERMIT.**

**A. Preliminary Review:** The Council encourages the submission of development plans for preliminary review. If a permit is necessary, the Council will make every effort to assist the applicant in expediting the administrative aspects of filing an application.

**B. Permit Application:** Except for those exemptions as specified in the 1977 Coastal Zone Management Act, as amended, any person wishing to alter a critical area must receive a permit from the Coastal Council. Section 14(b) of the Act [Section 48-39-140(b)] directs that certain information be included in the permit application submitted to the Council. The following minimum information shall ordinarily be required before a permit application is considered complete:

- (1) Name and address of the applicant;
- (2) A plan or drawing showing the applicant's proposal and the manner or method by which the proposal shall be accomplished;
- (3) A plat or a copy of a plat of the area in which the proposed work will take place;
- (4) A certified copy of the deed, lease or other instrument under which the applicant claims title, possession or permission from the owner of the property to carry out the proposal;
- (5) A list of all adjoining landowners and their addresses or a sworn affidavit that with due diligence such information is not ascertainable. When considered appropriate by the Council or its staff, additional information may be required concerning affected landowners;
- (6) A brief description of the proposed alteration, its purpose and intended use, including a drawing of the type of structure, a description of the method of construction, and identification of materials and equipment to be used;
- (7) A copy of the newspaper public notice:
  - (a) **Minor developments (see R.30-2(G)):** In the case of applications for minor development permits, the applicant shall publish notice at least once in a newspaper of local circulation in the county of the proposed activity. The newspaper notice should be published within 15 days of the date of Public Notice (see R.30-2(C)). No permit shall be issued by the Council until at least 10 days following the date of newspaper publication. The following form shall be used for newspaper publication:

## PUBLIC NOTICE

### SOUTH CAROLINA COASTAL COUNCIL

(Name of applicant) will apply (has applied) to the South Carolina Coastal Council for a permit to (description of work) for (public/private) use, at/in (location and name of waterway). Comments will be received by the South Carolina Coastal Council, 4130 Faber Place, Suite 300, Charleston, South Carolina 29405 until (insert date, 10 days after date of this newspaper notice).

(b) Other activities: In the case of applications for other than minor development permits, the applicant shall publish notice at least once in both a newspaper of general statewide circulation (The State, News and Courier, or The Greenville News) and a newspaper of local circulation in the county of the proposed activity. The newspaper notices should be published within 15 days of the date of Public Notice (see R.30-2(C)). No permit shall be issued by the Council until at least 15 days following the date of the last published newspaper publication. The following form shall be used for newspaper publication:

## PUBLIC NOTICE

### SOUTH CAROLINA COASTAL COUNCIL

(Name of applicant) will apply (has applied) to the South Carolina Coastal Council for a permit to (description of work) for (public/private) use, at/in (location and name of waterway). Comments will be received by the South Carolina Coastal Council, 4130 Faber Place, Suite 300, Charleston, South Carolina 29403 until (insert date, 15 days after date of this newspaper notice).

(8) When considered appropriate by the Council or its staff, additional information may be required. The plat or copy of a plat submitted for those activities subject to the Beach Management Act (Sections 48-39-270 through 350) shall show the location of the baseline, twenty-foot minimum setback line, and forty-year setback line, applicable to the subject property. The lines shall be derived from information available from the Coastal Council. The lines shall be part of the plat and sealed by the engineer and may not be placed on the application by anyone other than a registered engineer or member of the Coastal Council staff.

**C. Notification:** The Council is directed in Section 14(C) of the Act [Section 48-39-140(C)] and shall within thirty days of receiving either a Joint Public Notice or South Carolina Coastal Council permit application, notify in writing interested agencies, all adjoining landowners, local government units in which the land is located and other interested persons. This notice shall indicate the nature and extent of the applicant's proposal.

**D. Permit Processing:** Permit processing shall commence immediately upon receipt of either a Joint Public Notice or a South Carolina Coastal Council permit application and shall proceed concurrently but separately from any Federal authorization.

**E. Comments on Application:** Section 14(C) of the Act [Section 48-39-140(C)] allows all interested federal and state agencies, all adjoining landowners, local government units and other interested persons to have thirty days after the receipt of Public Notice of permit application from the Council to file written comments pertaining to the application. Only those comments received within the thirty day period must be considered in the Council's decision on a permit application. Any persons wishing to receive notice of the initial decision on a permit application shall notify the Council within this comment period. Provided, comments on permit applications for minor development activities, as defined in Section 3(N) of the Act [Section 48-39-10(N)], must be received within fifteen days after

receipt of Public Notice of permit application.

**F. Public Information:** The complete file on each permit application, including all comments received, will be available for inspection by any member of the general public during regular business hours at the principal Council office.

**G. State Comment:** Issuance or denial of the permit by the Coastal Council shall be the State comment on the corresponding federal permit application.

**H. Water Quality Certificate:** If a water quality certificate, is not required by a Federal permitting agency under Section 401 of P.L. 92-500, the Coastal Council may require a statement of water quality certification from the South Carolina Department of Health and Environmental Control.

### **30-3. PUBLIC HEARINGS**

Section 14(C) of the Act [Section 48-39-140(C)] directs the Council to hold public hearings on permit applications if it is deemed necessary. Section 15(B) of the Act [Section 48-39-150(B)] requires the Council to convene a public hearing before acting on an application if twenty or more citizens or residents of the affected county or counties request such a hearing. Each request must be in writing and on a separate sheet of paper and be received within thirty days after publication of a Public Notice of the permit application. In all cases, the public hearing shall be held in the county where the land is located, and if in more than one county, the Council shall determine in which county to hold the hearing or may hold hearings in more than one county. When applicable and practical, joint public hearings will be held with the United States Army Corps of Engineers and/or other agencies.

### **30-4. DECISIONS ON A PERMIT**

**A. Permit Approval:** The Council is allowed, under Section 15(B) of the Act [Section 48-39-150(B)], to issue a conditional permit approval. Under this provision, the Council may direct the applicant to amend his proposal to take specific measures necessary to protect the public interest. The Council, at its discretion, may seek additional public comment on major modifications to a permit application.

If the Council has approved an application, Section 15(B) of the Act [Section 48-39-150(B)] also allows the Council, at its discretion, to support the applicant in a Federal permitting process for the same activity.

**B. Permit Denial:** A Permit denial shall cite facts upon which the denial was based and the reasons for denial.

**C. Action Upon a Permit:** The Council, according to Section 15(c) of the Act, [Section 48-39-150(C)] shall act upon an application for a permit within ninety days. This ninety day period shall begin when the application is complete and filed in approved form. Exceptions of the 90-day deadline are applications for minor developments on which action must be taken in thirty days.

**D. Completion of Work:** Section 15(F) of the Act [Section 48-39-150(F)] requires a permit holder to complete work within three years from the date of permit issuance. The Council may extend this three-year period upon showing of good cause indicating that due diligence toward completion of the work has been made, evidenced by significant work progress. Work shall be continuous and expeditious whenever possible.

**E. Property Rights Not Affected; No State Liability; Other Permit Requirements:** No permit shall convey, not be interpreted to convey, a property right in the land or water in which the permitted activity is located. No permit shall be construed as

alienating public property for private use or as alienating private property for public use. In no way shall the State be liable for any damage as a result of the erection of permitted works. A South Carolina Coastal Council permit in no way relieves the holder from responsibility for compliance with other applicable Federal, State, or local permit requirements.

**F. Legally Commenced Use:** Section 13(C) of the Act [Section 48-39-130(C)] reads as follows, "Ninety days after the effective date of this act no person shall fill, remove, dredge, drain or erect any structure on or in any way alter any critical area without first obtaining a permit from the Council. Provided, however, that a person who has legally commenced a use such as those evidenced by a state permit, as issued by the Budget and Control Board, or a project loan approved by the rural electrification administration or a local building permit or has received a United States Corps of Engineers or Coast Guard permit, where applicable, may continue such use without obtaining a permit. Any person may request the Council to review any project or activity to determine if he is exempt under this section from the provisions of this act. The Council shall make such determinations within forty-five days from the receipt of any such request."

### **30-5. EXCEPTIONS.**

**A. List of Exceptions:** Section 13(D) of the Act [Section 48-39-130(D)] lists several exceptions which do not require a permit. These are as follows:

(1) The accomplishment of emergency orders of an appointed official of a county or municipality or of the state acting to protect the public health and safety, upon written notification to the Coastal Council. However, with regard to the beach/dune critical area, only the use of sandbags, sand scraping, or renourishment, or a combination of them, in accordance with guidelines provided by the Coastal Council is allowed. See R.30-5(B).

(2) Hunting, erecting duckblinds, fishing, shellfishing and trapping when and where otherwise permitted by law; the conservation, replenishment and research activities of State agencies and educational institutions; or boating or other recreation provided that such activities cause no material harm to the flora, fauna, physical, or aesthetic resources of the area.

(3) The discharge of treated effluent as permitted by law; provided, however, that the Council shall have the authority to review and comment on all proposed permits that would affect critical areas.

(4) Dredge and fill performed by the United States Corps of Engineers for the maintenance of harbor channels and the collection and disposal of the materials so dredged; provided, however, that the Council shall have authority to review and certify all such proposed dredge and fill activities.

(5) Construction of walkways over sand dunes in accordance with Section 12 of the Act [Section 48-39-120]. (See R.30-13(B)).

(6) Emergency repairs to an existing bank, dike, fishing pier, or structure other than oceanfront erosion control structures or devices which have been erected in accordance with federal and state laws or provided for by general law acts passed by the General Assembly, if notice is given in writing to the Coastal Council within 72 hours of the onset of needed repairs.

(7) Maintenance and repair of drainage and sewer facilities constructed in accordance with federal or State laws, and normal maintenance and repair of any utility or railroad.

(8) Normal maintenance or repair to any pier or walkway, provided that such



maintenance or repair shall not involve dredge or fill.

(9) Construction or maintenance of a major utility facility where the utility has obtained a certificate for such facility under "The Utility Facility Siting and Environmental Protection Act" (Sections 58-33-10 through 58-33-430 of the 1976 Code). Provided, however, that the South Carolina Public Service Commission shall make the Council a party to certification proceedings for utility facilities within the coastal zone.

(10) Habitable structures and pools determined to be damaged less than sixty-six and two-thirds percent pursuant to R.30-14(D)(3)(a) and (b) may be repaired after acceptable documentation is provided to Coastal Council.

(11) Erosion control structures or devices determined to be damaged less than eighty percent above grade through June 30, 1995, sixty-six and two-thirds percent above grade from July 1, 1995, through June 30, 2005, or fifty percent above grade after June 30, 2005, pursuant to R.30-14(D)(3)(c) and (d) may be repaired after acceptable documentation is provided to Coastal Council.

**B. Notification to Council of Emergency Orders:**

(1) As in A(1) above, the Council must be notified of emergency orders that normally would require a Council permit. Notification to the Council must be made in writing prior to commencement of the activity and must state the following:

- (a) the nature of the emergency;
- (b) the substance of the emergency order;
- (c) the time the order will be issued, or if circumstances preclude prior notice, when the order was issued;
- (d) the name of the local official executing the order and the authority under which that person is acting;
- (e) the location of the activity ordered;
- (f) the estimate of when such order shall be withdrawn.

(2) If the Council is not notified within seventy-two hours of the issuance of the emergency action taken, the official issuing such order or ordering such emergency action shall be in violation of the Act and these rules and regulations. Within seventy-two hours after the emergency order, the official ordering the emergency action shall put the above six elements in writing and file them with the Council.

(3) The official issuing the emergency order shall be deemed in violation of the Act if the emergency conditions do not conform with the definition of emergency in Section 3 of the Act [Section 48-39-10].

**C. Emergency Repairs to any Existing Bank and Dike or Fishing Pier:** As in A(6) above, notice by telephone, telegram or radio of emergency repairs to any existing bank, dike or fishing pier must be given to the Council within seventy-two hours from the onset of needed repairs. Within five days after the commencement of repairs, written notification must be filed with the Council. If such notification is not received, the person(s) performing the work will be in violation of the Act and these rules and regulations.

**D. Normal Maintenance and Repair:** Normal maintenance and repair applies only to work on a structure which has been previously permitted or is grandfathered or exempted and is still generally intact and functional in its present condition. The work may only extend to the original dimensions of the structure, and any expansion, additions, or major rebuilding will require either a Coastal Council permit or documentation to and written approval from Council.

### **30-6. COUNCIL APPEALS.**

**A. Notice of Intention to Appeal:** Any person adversely affected by the Council's initial action has the right of direct appeal to the Council. Notice of Intention to Appeal an initial permit application decision must be filed in writing within fifteen days of the date of notification to the applicant and other persons who requested notification of the initial Council action. (See R.30-2(E).)

**B. Filing of Appeal:** Within fifteen days of filing the Notice of Intention to Appeal, appellant must file in writing an appeal with the grounds for appeal clearly stated. The grounds for appeal must contain a statement showing how the party seeking review is adversely affected by the Council's action. Appellant will be limited to the grounds as stated. The appeal may be filed simultaneously with the Notice of Intention to Appeal (and in the same document) if done so within fifteen days of the date of notification to the applicant and other interested persons of the initial Council decision.

**C. Public Notice:** The Council, within ten days of receiving the Appeal, shall notify in writing interested agencies, all adjoining landowners, local government units and other interested persons. This notice shall indicate the nature and extent of the Appeal.

**D. Intervenor:** Affected parties, if they wish to intervene, must give Notice of Intent to Intervene and grounds for intervention within twenty days of the date of the Appeals Public Notice ((C) above). The Notice of Intent to Intervene and accompanying statements must be in writing with grounds clearly stated. The Notice of Intent to Intervene and grounds for intervention must contain a statement indicating that the party seeking to intervene has standing to do so by way of being a person affected by the Council's initial decision. Intervenor will be limited to the grounds as stated. All intervenors shall become parties to the action. Permit applicants will be made a party to all appeals involving their permit applications.

**E. Comments:** Written comments for Council consideration regarding an Appeal will be accepted for thirty days after the date of the Appeals Public Notice.

**F. Notification of Hearing:** The Council shall notify parties to the action of the date, time and place of the Appeals hearing. The Appeal shall be heard within 65 days of the date of the Appeals Public Notice but not less than thirty days after the date of Appeals Public Notice. By agreement of all parties to the Appeal, the hearings and/or oral presentations before the Council may be waived.

**G. Hearing of Appeal:** If a hearing is to be held, the Council may appoint a hearing officer to conduct all or part of the hearing. The hearing officer shall hear all relevant evidence offered from all parties and shall be responsible for compiling the complete record of the Appeal. Written statements for the record shall be welcomed. The transcript of the Appeal shall be distributed to all Council members before the Council meets on the Appeal. After receipt of the transcripts, parties to the Appeal shall be provided an opportunity to present oral arguments to the Council. Each party shall be given an allotted period of time to present oral arguments. Questions from Council members within the allotted time period shall be within a time frame prescribed by the Council. The Council shall notify each party of the hearing schedule at least ten days in advance.

**H. Record of Appeal:** A Record of Appeal shall be kept and filed in the Council's office. Oral proceedings or any part thereof shall be transcribed upon the request of a party. The Council may, in its discretion, require persons requesting a transcript to pay reasonable printing costs.

**I. Decision on Appeal:** A decision on the Appeal may be made by the Council immediately after the presentation of oral arguments but, in any case, no later than 35 days after the presentation. Each party shall be notified in writing of the decision.

**J. Final Order:** The final Council decision shall be in the form of written Findings of Fact and Conclusions of Law. The Findings of Fact and Conclusions of Law must be approved by a vote of the full Council after which they are signed by the Chairman of the Council. The Findings of Fact and Conclusions of Law shall be served on each party to the appeal.

### **30-7. JUDICIAL APPEAL.**

**A. Exhaustion of Administrative Remedies:** Section 18 of the Act allows judicial review of Council action. Before seeking judicial relief from a Council permit application decision, a person must seek relief through the Council appeal process in 30-6 above.

**B. Time Period for Filing:** The 20 day time period for filing an appeal in the circuit court will commence to run from date of receipt of the Council's Findings of Fact and Conclusions of Law.

### **30-8. ENFORCEMENT.**

**A. Permit Revocation and Modification:** One of the needs in administering a permit system to manage coastal resources is the enforcement of the provisions of the system and the identification of unpermitted and unauthorized activities. The Council has initiated a routine aerial surveillance program for the coastal counties which identifies and reports illegal dredging, filling, or other alterations in the critical areas.

As the state agency responsible for managing the critical areas, the Council is adamant in its enforcement of terms of an approved permit. Section 15(E) of the Act [Section 48-39-150(E)] empowers the Council to revoke a permit for noncompliance with or violation of its terms after written notice of intention to do so has been given the holder, and the holder, in return, has been given the opportunity to present an explanation to the Council. Financial hardship on the part of a holder shall not be a defense to the revocation of a permit. The Council may also revoke a permit if it finds that the holder or his agent submitted false information to the Council.

**B. Cease and Desist Directive:** When any person is found altering a critical area without a permit and such activity is not exempted by Section 13(D) of the Act [Section 48-39-130(D)], has not been authorized by a permit, is in violation of the terms of a Council permit or is violating provisions of the Coastal Management Act [Section 48-39-10 et seq.] in any manner, the Council, or its duly appointed agent, may issue a cease and desist directive. This directive shall inform the person that he is in violation of the Act and that such person should cease unauthorized activity. The Council may then request the person to restore the area to its original condition. If the person responsible for the unauthorized activity refuses to comply with the Council directive, the Council may then file suit in the appropriate circuit court as outlined in Section 16 of the Act [Section 48-39-160].

**C. Arrest Warrants:** When a person is found altering a critical area without a permit and such activity is not exempted by Section 13(D) of the Act [Section 48-39-130(D)], has not been authorized by a permit, is in violation of the terms of a Council permit or is violating provisions of the Coastal Management Act [Section 48-39-10 et seq.] in any manner, the Council may cause to be issued a warrant for the arrest of the violator.

**D. Penalties:** As stated in Section 17 of the Act [Section 48-39-170] any person

found guilty of violation of the Act shall be punished by imprisonment of not more than six months or by a fine of not more than five thousand dollars, or both for the first offense; and by imprisonment of not more than one year or by a fine of not more than ten thousand dollars, or both, for each subsequent offense.

**E. Judicial Enforcement:** Section 16 of the Act [Section 48-39-160] provides the Council, the Attorney General or any person adversely affected with a remedy to restrain violations of the Act.

### **30-9. OTHER PROVISIONS.**

**A. Savings Clause:** If any provisions of the Act or of these Rules and Regulations are adjudged invalid or unconstitutional, the remainder of the Act and these Rules and Regulations and/or the application of their provisions to other persons or circumstances shall not be affected thereby.

**B. Bonding by Council:** To insure that the holder complies with all limitations and conditions of the permit, the Council may, at its discretion, require a secured bond before issuance of the permit. The Council may also require the applicant to submit proof of financial responsibility.

**C. Transfer of Permits:** Permits are issued in the name of the applicant and may not be assigned to another without written permission of the Council.

**D. Declaratory Rulings:** Interested persons may petition to the Council for declaratory rulings. The Council shall rule on each petition, in writing, within 45 days of receipt.

### **30-10. CRITICAL AREA BOUNDARIES.**

#### **A. Coastal Waters and Tidelands:**

(1) The Council has permit authority over the coastal waters and tidelands critical areas defined in Section 3 of the Act [Section 48-39-10] as follows:

“‘Coastal waters’ means the navigable waters of the United States subject to the ebb and flood of the tide and which are saline waters, shoreward to their mean high-water mark. Provided, however, that the Council may designate boundaries which approximate the mean extent of saline waters until such time as the mean extent of saline waters can be determined scientifically.

‘Tidelands’ means all areas which are at or below mean high tide and coastal wetlands, mudflats, and similar areas that are contiguous or adjacent to coastal waters and are an integral part of the estuarine systems involved. Coastal wetlands include marshes, mudflats, and shallows and means those areas periodically inundated by saline waters whether or not the saline waters reach the area naturally or through artificial water courses and those areas that are normally characterized by the prevalence of saline water vegetation capable of growth and reproduction. Provided, however, nothing in this definition shall apply to wetland areas that are not an integral part of an estuarine system. Further, until such time as the exact geographic extent of this definition can be scientifically determined, the Council shall have the authority to designate its approximate geographic extent.”

Using biological field surveys and aerial photography, the Council has found the point on the upper reaches of the estuarine systems where tideland vegetation changes from predominately brackish to predominately fresh and has established a boundary using the nearest recognizable physical features within this area. This boundary has been posted on an official map in the Coastal Council’s principal office of business and is available for public review. An approximate description of this boundary is as follows: On the south at the

intersection of the South Carolina-Georgia border and the old track bed of the Seaboard Coastline (SCL), approximately 1.75 miles above the U. S. Highway 17A bridge across the Savannah River; thence, northeastward along the track bed until its intersection with U. S. Highway 278 near Eutaw Creek; thence, northward along U. S. 278 for approximately one mile until its intersection with S. C. 462; thence, north-northwestward along S. C. 462 until its intersection with U. S. Highway 17 near Coosawhatchie; thence, northeastward along U. S. 17 until its intersection with S-15-26, approximately two miles east of Green Pond; thence, southward along S-15-26 until its intersection with the old SCL track bed near Airy Hall; thence, east-northeastward along the track bed to its intersection with S. C. 174; thence, northward along S. C. 174 for approximately 1.5 miles until its intersection with S. C. 164; thence, east-northeastward approximately three miles along S. C. 164 until its intersection with S. C. 165; thence, northward along S. C. 165 until its intersection with S. C. 642; thence, southeastward along S. C. 642 until its intersection with U. S. Interstate 26; thence, southward along I-26 until its intersection with S. C. 7; thence, northeastward on S. C. 7 until its intersection with the SCL track bed adjacent to Spruill Avenue; thence, northward along this track bed until its intersection with the Charleston County/Berkeley County line, approximately one-fifth mile north of Remount Road; thence, east-northeastward along the county line until its intersection with the Cooper River at Goose Creek; thence, eastward by a straight line across the Cooper River and Yellow House Creek to Yellow House Landing on Yellow House Creek; thence, southward along the only dirt road leading from the landing to S-8-33; thence, northeastward along S-8-33 until its intersection with S-8-100; thence, northeastward along S-8-100 until its intersection with S-10-98; thence, southward along S-10-98 until its intersection with U. S. Highway 17; thence, northeastward along U. S. Highway 17 until its intersection with S-27-30 north of the North Santee River; thence, eastward along S-27-30 for approximately five miles; thence, northward along S-27-30 until its intersection with S-27-18; thence, northwestward along S-27-18 until its intersection with U. S. Highway 17; thence, northeastward along U. S. 17 until its intersection with the South Carolina-North Carolina border. In determining the exact location of this boundary, only those lands seaward of the road beds and track beds described shall be included in the tidelands and coastal waters critical areas.

(2) All coastal waters and tidelands seaward from this boundary to the State jurisdictional limit are included within the critical areas.

**B. Beach/Dune System:**

The Coastal Council has permitting authority over the beach/dune system. In determining the boundaries of this critical area, the Coastal Council will be guided by Section 48-39-270, Section 48-39-280 and Section 48-39-360.

**30-11. GENERAL GUIDELINES FOR ALL CRITICAL AREAS.**

**A. Preface:** The critical areas are of vital importance to the State, and there is strong and growing pressure for the development of these areas. The South Carolina Coastal Council has established these rules and regulations for permit applications in an effort to reduce the irreversible loss of productive tidelands, coastal waters, beaches, and dunes while meeting long-range State development needs.

**B. General Considerations:** In assessing the potential impacts of projects in critical areas, the Council will be guided by the policy statements in Section 1 and 2 of the Act [Sections 48-39-20, 48-39-30] and the following ten considerations in Section 15 of the Act [Section 48-39-150]:

(1) The extent to which the activity requires a waterfront location or is economically enhanced by its proximity to the water;

(2) The extent to which the activity would harmfully obstruct the natural flow of navigable water. If the proposed project is in one or more of the State's harbors, or in a waterway used for commercial navigation and shipping, or in an area set aside for port development in an approved management plan, then a certificate from the South Carolina State Ports Authority declaring that the proposed project or activity would not unreasonably interfere with commercial navigation and shipping must be obtained by the Council prior to issuing a permit;

(3) The extent to which the applicant's completed project would affect the production of fish, shrimp, oysters, crabs, or clams or any marine life or wildlife, or other natural resources in a particular area, including but not limited to water and oxygen supply;

(4) The extent to which the activity could cause erosion, shoaling of channels or creation of stagnant water;

(5) The extent to which the development could affect existing public access to tidal and submerged lands, navigable waters and beaches, or other recreational coastal resources;

(6) The extent to which the development could affect the habitats for rare and endangered species of wildlife or irreplaceable historic and archeological sites of South Carolina's coastal zone;

(7) The extent of the economic benefits as compared with the benefits from preservation of an area in its unaltered state;

(8) The extent of any adverse environmental impact which cannot be avoided by reasonable safeguards;

(9) The extent to which all feasible safeguards are taken to avoid adverse environmental impact resulting from a project;

(10) The extent to which the proposed use could affect the value and enjoyment of adjacent owners."

**C. Further Guidelines:** In the fulfilling of its responsibility under Section 15(A) of the Act, the Council must in part base its decisions regarding permit applications on the policies specified in Sections 1 and 2 of the Act, and thus, be guided by the following:

(1) The extent to which long-range, cumulative effects of the project may result within the context of other possible development and the general character of the area.

(2) Where applicable, the extent to which the overall plans and designs of a project can be submitted together and evaluated as a whole, rather than submitted piecemeal and in a fragmented fashion which limits comprehensive evaluation.

(3) The extent and significance of negative impacts on Geographic Areas of Particular Concern (GAPC). The determination of negative impacts will be made by the Coastal Council in each case with reference to the priorities of use for the particular GAPC. The priorities of use are found in Chapter IV of the Coastal Management Program.

**D. General Guidelines for Beaches and Dunes:**

In addition to the provisions of the South Carolina Coastal Management Act of 1977, the policies of the South Carolina Coastal Management Program, and applicable rules and regulations, the Coastal Council shall base its decisions on activities in the beach/dune system on the findings and policies specified in Section 48-39-250 and Section 48-39-260 of the 1977 Coastal Zone Management Act, as amended, and the following:

1. The Coastal Council shall discourage new construction in the beach/dune

system and encourage those who have erected structures within the system to retreat.

2. The Coastal Council shall promote soft-solutions to erosion within the context of a policy of retreat of development from the shore and prevent the strengthening and enlargement of existing erosion control structures.

3. The Coastal Council shall promote public access to the beaches of this state.

4. The Coastal Council shall consider state and local comprehensive plans. No permit shall be issued which is inconsistent with the state plan, and all permits issued shall be consistent with local plans to the maximum extent practicable.

5. The Coastal Council shall be guided by the prohibitions against construction contained in Section 290 and Section 300 of the Act which are based upon the conclusion that ill-planned development, whether habitable structures, recreational amenities, erosion control devices or other manmade structures, will now and in the future adversely impact the fragile beach/dune system. These structures interfere with the natural system and impact the highest and best uses of the system. In order to protect the highest and best uses of the beach/dune system, the Coastal Council, in its management capacity, shall encourage minimal development therein.

6. The destruction of beach or dune vegetation seaward of the setback line is prohibited unless there is no feasible alternative. When there is destruction of vegetation permitted seaward of the setback line, mitigation, in the form of planting new vegetation to rectify the destruction is required as a permit condition. In no event shall any part of a building be constructed on a primary oceanfront sand dune.

### **30-12. SPECIFIC PROJECT STANDARDS FOR TIDELANDS AND COASTAL WATERS.**

#### **A. Docks and Piers:**

(1) A dock or pier is a structure built over and/or floating on water and is generally used for the mooring of boats. Docks and piers are the most popular method of gaining access to deep water. Although they are least objectionable from an ecological point of view, docks and piers sometimes pose navigational problems, restrict public use of the water and, under certain circumstances, possess potential for creating environmental problems.

(2) The following standards are applicable for construction of docks and piers:

(a) Docks and piers shall not impede navigation or restrict the reasonable public use of State lands and waters;

(b) Docks and piers shall be constructed in a manner that does not restrict waterflow;

(c) The size and extension of a dock or pier must be limited to that which is reasonable for the intended use;

(d) Docks and piers should use the least environmentally damaging alignment;

(e) All applications for docks and piers should accurately illustrate the alignment of property boundaries with adjacent owners;

(f) To preclude the adverse effects of shading marsh vegetation, walkways which are built over vegetated marsh and lead to the dock or pier shall not exceed four feet in width (unless the applicant can justify a need for a wider structure) and should be

elevated at least three feet above mean high water;

(g) Dry storage in uplands will be encouraged in preference to moorage in crowded areas;

(h) Developers of subdivisions and multiple family dwellings are encouraged to develop joint-use or community docks when their plans are in the development stage. However, community docks may be considered a marina if any services are offered besides moorage for those having a right to use the dock or if the size and location of the community dock creates the potential for significant impact;

(i) Project proposals shall include facilities for the proper handling of litter, waste, refuse and petroleum products, where applicable;

(j) Where docks and piers are to be constructed over tidelands utilized for shellfish culture or other mariculture activity, the Council will consider rights of the lessee and the public prior to approval or denial.

#### **B. Boat ramps:**

(1) Boat ramps provide access to the water for those who do not have water access by means of docks, piers, or marinas. However, boat ramp construction may require filling or, in some cases, dredging of wetland areas.

(2) Specific standards which shall apply are as follows:

(a) Filling of vegetated wetlands for boat ramp construction is prohibited unless no feasible alternatives exist in non-vegetated wetland areas. In addition, the area to be filled must be limited to that which is reasonable for the intended use;

(b) Boat ramps must consist of environmentally acceptable materials, demonstrate sound design and construction so that they could reasonably be expected to be safe and effective, and minimize adverse effects.

(c) Justification for boat ramp construction in environmentally sensitive areas shall be considered using the following priorities:

(i) public use - open to all citizens;

(ii) restricted use - open to citizens of a particular area or organization only;

(iii) private use - use for one citizen or family;

(d) In cases where private use is necessary, siting of ramps must, wherever feasible, be located in areas where the least environmental impact will accrue to the area;

(e) Boat ramp location requiring dredging or filling of wetlands to provide deepwater access to the ramp, parking areas for the ramp, or other associated facilities are prohibited unless no feasible alternatives exist and environmental impacts can be minimized;

(f) The siting of "public use" boat ramps is encouraged in easily accessible areas such as bridges and existing, abandoned causeways, provided that these sites comply with other applicable regulations.

#### **C. Bulkheads and Revetments (Rip-rap) (Other than ocean front, as covered under R.30-13(A)):**

(1) In an attempt to mitigate certain environmental losses that can be caused by these structures, the following standards are adopted:

(a) Structures must be designed to conform to the existing shoreline (upland boundary), to the maximum extent feasible, and constructed so that reflective wave energy does not destroy stable marine bottoms or constitute a safety hazard;



(b) Where possible, sloping rip-rap structures should be used rather than vertical seawalls;

(c) Where feasible, bulkhead and revetment construction shall avoid sharp angle turns that may collect debris or cause shoaling or flushing problems;

(d) Bulkheads and revetments will be discouraged where marshlands are adequately serving as an erosion buffer, where adjacent property could be detrimentally affected by erosion, sedimentation, or obstruction of view, or where public access is adversely affected;

(e) Bulkheads and revetments will not be approved where public access is adversely affected unless no feasible alternative exists.

#### **D. Cables, Pipelines, and Transmission Lines:**

(1) Installation of cables, pipelines, and transmission lines is preferred in non-wetland areas; however, excavating activities in critical areas are sometimes required. Excavation and filling also are sometimes required to construct foundation structures attendant to the installation of overhead transmission line crossings. These installations shall be designed to minimize adverse environmental impacts.

(2) In addition to standards for dredging and filling, the following standards are applicable:

(a) To the maximum extent feasible, alignments must avoid crossing the critical areas;

(b) Creation of permanent open water canals to install pipelines is generally prohibited since such projects usually interfere with drainage patterns and may adversely affect water quality through accelerated bank erosion;

(c) Dimensions of excavated canals for cables and pipelines should be minimal. Silt curtains are recommended for all excavations;

(d) Wherever feasible, all excavations in wetland areas must be backfilled with the excavated material after installation of the appropriate structure, while being careful to maintain the original marsh elevation;

(e) Appropriate erosion control measures shall be employed during the crossing of wetland areas. Where appropriate, revegetation with suitable wetland species will be required;

(f) Alignments of new projects should be designed to utilize existing rights-of-way and topographic features, wherever feasible;

(g) The extension of public services, such as sewer and water facilities, involving the expenditure of public funds or issuance of government revenue bonds to previously undeveloped barrier islands will not be approved unless an overriding public interest can be demonstrated.

#### **E. Marina Location and Design:**

(1) Each applicant for a marina in the critical areas of the coastal zone must utilize the "Coastal Marina Permit Application" as published by the South Carolina Coastal Council. Each application must be accompanied by a Coastal Marina Report developed in accordance with the "Guidelines for Preparation of Coastal Marina Report" also published by the South Carolina Coastal Council. In addition, each applicant who is issued a marina permit by the Coastal Council must submit an operation and maintenance plan in accordance with the Coastal Council's "Coastal Marina Operations and Maintenance Manual", and have that plan approved by the Coastal Council before actual construction of the facility may commence.

(2) Commercial docks are also considered a marina type facility. The standards that apply to marinas will also be used as criteria in the evaluation of permit applications for commercial docks.

(3) All marinas affect aquatic habitats to some degree, but adverse effects can be minimized by utilizing proper location and design features. Application for marinas shall include a comprehensive site plan showing location and number of all water-dependent and upland facilities such as parking and storage facilities.

(4) In addition to standards for bulkheads and seawalls, docks and piers, dredging and filling, and navigation channels and access canals, the following standards are applicable:

(a) Marinas should be located in areas that will have minimal adverse impact on wetlands, water quality, wildlife and marine resources, or other critical habitats;

(b) Where marina construction would affect shellfish areas, the Council must consider the rights of the lessee, if applicable, and the public, and any possible detrimental impacts on shellfish resources;

(c) Marinas should be located in areas where maximum physical advantages exist and where the least initial and maintenance dredging will be required;

(d) Marinas must avoid or minimize the disruption of currents. Dead-end or deep canals without adequate circulation or tidal flushing will not be permitted unless it can be demonstrated that water quality will not be adversely affected;

(e) Marina design must minimize the need for the excavation and filling of shoreline areas;

(f) Open dockage extending to deep water is usually preferable to excavation for boat basins, and it must be considered as an alternative to dredging and bulkheading for marinas;

(g) Turning basins and navigation channels shall be designed to prevent long-term degradation of water quality. In areas where there is poor water circulation, the depth of boat basins and access canals should not exceed that of the receiving body of water to protect water quality;

(h) Project proposals shall include facilities for the proper handling of petroleum products, sewage, litter, waste, and other refuse with regard to the South Carolina Department of Health and Environmental Control (DHEC) specifications.

Adequate restroom facilities shall be required in order to discourage any overboard discharge of sewage from boats and, thus, to protect water quality. The number of toilets required for any given marina shall be determined by the nature and size of the marina and by its specific site location. However, regardless of size, two toilets and one lavatory for women and one toilet, one urinal, and one lavatory for men shall be required for all marinas, and unless there are mitigating circumstances, the Council shall require one toilet and one lavatory for women and one toilet, one urinal, and one lavatory for men for every additional 100 boat slips or fraction thereof over the original 100 boat slips. Toilet facilities should be constructed in a location that would encourage their use by the users of the marina.

If there are more than 100 slips, there shall be provided one additional toilet, lavatory and shower for each sex for each additional 40 slips or fraction thereof and one additional men's urinal for each 100 additional slips or fraction thereof.

Additional facilities are required by DHEC where restaurants, motels, laundries, and other nonwater-dependent structures are provided.

All pump-out and sewage facilities must be included in the public notice and certified

by DHEC before permit approval. Also, DHEC can provide advice regarding the necessity of having hose connections from boats to shore-based sewage facilities where these boats are used as residences.

Trash receptacles or similar facilities should be plentiful and convenient for the proper disposal of trash, waste and noxious materials such as paints, rags and oil cans required for normal boat maintenance and repair.

Where feasible, boat maintenance areas must be designed so that all bottom scraping and painting be accomplished over dry land allowing for proper control and deposition of residues, spills and storm water runoff;

(i) Dry storage type marinas are preferred, wherever feasible;

(j) Applications for construction of marina and commercial dock facilities will be considered by the Council only after adequate demonstration by the applicant of demand for the facilities;

(k) Applications for marinas must include maintenance dredging schedules and dredged material disposal sites when applicable.

#### **F. Transportation:**

(1) There is often a strong public need for transportation projects. Unfortunately, such projects can pose a significant risk of environmental degradation. However, careful consideration of environmental factors can guide development toward more favorable results. To the maximum extent possible, environmental considerations shall be harmonious with public safety considerations.

(2) The specific standards are as follows:

(a) In the planning of major transportation routes and airports, these projects should be sited for location inland from the critical areas;

(b) The location and design of public and private transportation projects must avoid the critical areas to the maximum extent feasible. Where coastal waters and tidelands cannot be avoided, bridging rather than filling of these areas will be required to the maximum extent feasible;

(c) Where wetlands will be destroyed, their value as wetlands will be assessed by the Council and weighed against public need for their destruction;

(d) To the maximum extent feasible, transportation structures must be designed so as not to alter the natural waterflow and circulation regimes or create excessive shoaling or erosion. Where applicable, adequate clearance for commercial and pleasure craft must be provided;

(e) Where feasible, maximum care shall be taken to prevent the direct drainage of runoff water from transportation routes and associated facilities from entering adjacent water bodies;

(f) Where appropriate, bridges and approaches should be designed to provide for the enhancement of public access by the utilization of fishermen, catwalks, boat launching ramps, and other structural features;

(g) During the planning of a multi-lane widening or improvement project, it is preferable to follow the existing alignment in wetland areas. Existing causeway and fill areas must be utilized wherever possible. The degree to which any existing causeway through wetlands can be widened must be reasonably proportionate to the expected traffic load of the causeway in the near future and the size and use of the area being provided access. The width of medians of divided highways must be reduced as much as possible wherever they cross wetland areas;

(h) Roadway embankments and fill areas shall be stabilized by utilizing appropriate erosion devices and/or techniques in order to minimize erosion and water quality degradation problems. Culverts shall be required, where appropriate, in order to maintain normal tidal influence and minimize disruption of drainage patterns;

(i) The Council will require applicants for transportation project permits to consider the accommodation of other public utilities in facility design, thus avoiding unnecessary future alteration such as that caused by the laying of cables or transmission lines in wetlands adjacent to an existing roadway;

(j) New road or bridge projects involving the expenditure of public funds to provide access to previously undeveloped barrier islands will not be approved unless an overriding public interest can be demonstrated.

#### **G. Dredging and Filling:**

(1) Development of wetland areas often has been considered synonymous with dredging and filling activities. Dredging and filling in wetlands can always be expected to have adverse environmental consequences; therefore, the Council discourages dredging and filling. There are cases, however, where such unavoidable environmental effects are justified if legitimate public needs are to be met.

(2) The specific standards are as follows:

(a) The creation of commercial and residential lots strictly for private gain is not a legitimate justification for the filling of wetlands. Permit applications for the filling of wetlands and submerged lands for these purposes shall be denied, except for erosion control, see R.30-12(C), or boat ramps, see R.30-12(B). All other dredge and fill activities not in the public interest will be discouraged;

(b) Dredging and filling in wetland areas should be undertaken only if that activity is water-dependent and there are no feasible alternatives;

(c) To the maximum extent feasible, dredging and filling activities should be restricted in nursery areas and shellfish grounds and during periods of migration, spawning, and early development of important sport and commercial species;

(d) Dredging and excavation shall not create stagnant water conditions, lethal fish entrapments, or deposit sumps or otherwise contribute to water quality degradation;

(e) Designs for dredging and excavation projects shall, where feasible, include protective measures such as silt curtains, diaphragms, and weirs to protect water quality in adjacent areas during construction by preventing the dispersal of silt materials;

(f) Dredged materials shall be deposited and contained in such a manner so as to prevent dispersal into adjacent wetland areas;

(g) Applications for dredging in submerged and wetland areas for purposes other than access, navigation, mining, or drainage shall be denied, unless an overriding public interest can be demonstrated. Dredging permits for mining will be issued only as specified in (2)(h) below. Drainage permits must be consistent with the provisions in R.30-12(L);

(h) Applications for dredging for mining activities within the critical areas will be denied unless a significant portion of the resource is located in the critical area, extraction of the resource is clearly necessary, and benefits derived from extraction would outweigh resultant detrimental impacts on coastal ecosystems. For any permit issued to allow dredging for mining operations in the critical areas, a complete site reclamation plan shall be required;

(i) Wetlands shall not be utilized as depositories for waste materials except as discussed in R.30-12(I);

(j) In all cases, dredging activities shall not be approved until satisfactory disposal sites have been acquired.

#### **H. Navigation Channels and Access Canals:**

(1) Certain dredging activities involve the creation and maintenance of navigation channels and access canals. These activities have a potential for severe environmental impacts and should meet a demonstrated public need.

(2) Where the Council determines that such activities are justified, the following standards will be applied:

(a) Dredging for establishment of new canals which involves permanent alteration of wetland habitats will be prohibited unless no feasible alternative exists. Establishment of canals for purposes of creating waterfront lots from inland property will be prohibited unless it can be demonstrated that there will be no significant environmental impacts on critical areas;

(b) To the extent feasible, project plans must utilize piers or catwalks, rather than channels or canals, to reach deeper water areas;

(c) Access canals shall be designed to insure adequate flushing and shall not create dead-end or stagnant water pockets. Open-ended, U-shaped, or semicircular canals are generally preferred over dead-end canals, since they usually provide better water circulation;

(d) Highland waterway construction that is slated to be tied into wetland areas shall be constructed in the dry, if feasible, so that sloping and stabilization of the banks can be completed before the plug is removed for the connection to open waters. Where dry construction is not possible, temporary plugs or silt curtains at the end of canals connected to waterways should be maintained until all sediment settles out;

(e) The sides of navigation channels and access canals should be gently sloping rather than vertical to facilitate biological as well as physical stabilization of the canal banks;

(f) When several landowners are to be served by a project, dredging for navigation channels and access canals should be well planned to prevent unnecessary excavation. Tributary canals in the highlands leading to a central navigation channel should be utilized rather than separate channels for each waterfront landowner;

(g) The berm of access canals should be raised so that there is a gradual slope away from the canal edge. This will help prevent introduction of contaminants into adjacent wetland areas;

(h) Alignment of channels and canals should make maximum use of natural or existing channels. Alignment of channels and canals should avoid shellfish beds, nursery areas, and spawning areas in wetlands.

#### **I. Deposition of Dredged Material:**

(1) The deposition of dredged materials resulting from numerous dredging activities along the coast has serious environmental effects separate from the original dredging activity. Thousands of acres of productive wetland habitat have been destroyed by such deposition. Recognizing that additional disposal sites will be required, it is important that site acquisition proposals include plans for mitigating any adverse impacts upon the environment.

(2) The following standards are to be utilized:

(a) Upland disposal of dredged material shall always be sought in preference to disposal in wetlands. Vegetated wetlands and mudflats shall not be utilized for disposal of dredged materials unless there are no feasible alternatives. Any other wetlands should not be utilized for disposal of dredged materials when other alternatives exist;

(b) Open water and deep water disposal should be considered as an alternative if highland alternatives are not feasible. However, open and deep water disposal sites should be seriously considered only after careful consultation with the Council and other relevant State and Federal agencies;

(c) Dredged materials containing hazardous levels of toxic material must be disposed of with extraordinary caution. These materials shall never be disposed of in wetland areas and only in highland areas which are lined and diked with impervious materials. These materials will only be disposed in open water ocean dumping sites when maximum safety has been demonstrated after thorough review by the Coastal Council and other appropriate state and federal agencies;

(d) Dikes surrounding disposal areas should be shaped and vegetated immediately to minimize erosion, with outfalls positioned to empty into non-wetland areas;

(e) Future disposal sites shall be reviewed on a case-by-case basis;

(f) Wherever feasible, existing disposal areas shall be utilized to the fullest extent possible; this would include raising the height of the embankments to increase the holding capacity of the disposal area;

(g) Consideration must be given to the temporal aspects of spoil deposition - for example, impacts on spawning, fish migrations, shellfish harvesting, waterfowl nesting and wintering areas, and mosquito control. Attention must be given to possible adverse impacts of various alternative sites on the public health and welfare as well as on critical fish and wildlife areas;

(h) In all cases, dredging activities shall not be approved until satisfactory disposal sites have been acquired.

#### **J. Waste Treatment Systems:**

(1) Several agencies regulate the installation and operation of waste water treatment facilities, septic tanks, and landfills. Council permits will be coordinated with these relevant agencies. Normal maintenance and repair of sewer facilities are exempted from Council permit requirements by Section 13(D) of the Act [Section 48-39-130(D)]. The discharge of treated effluent is also exempted; provided, however, that the Council shall review and comment on these discharges. The Council is concerned primarily with wetland degradation problems which could involve commercially important shellfish, recreational fisheries, and critical wildlife habitats.

(2) Standards applicable to these installations are as follows:

(a) Applications for the construction of lagoons or impoundments for waste treatment facilities, solid waste disposal sites and similar activities in the critical areas shall be denied unless there are no feasible alternatives and it can be demonstrated that there will be no significant environmental impacts;

(b) Wherever feasible, construction and design of waste treatment facilities shall be accomplished in such a manner that no effluent will be discharged into areas where shellfish and other marine resources would be adversely affected. Where waste treatment facilities would affect open, productive shellfish harvesting areas, the Council must consider the rights of the lessee, if applicable, or the public in the case of public oyster grounds, as well as impacts on shellfish resources;

(c) The siting of sewage treatment systems should avoid the critical areas. The location of structures other than actual pipelines, such as pump or lift stations, in critical areas will be prohibited unless no feasible alternatives exist;

(d) The construction of sewage treatment facilities and associated discharge pipes should be located and designed so as not to have adverse impacts upon areas of significant public use.

**K. Marsh Impoundments for Recreational and Commercial Activities:**

(1) Marsh impoundments totalling nearly 69,000 acres comprise a significant portion (approximately 16 percent) of our coastal wetlands. An additional acreage, perhaps equaling this figure, has been impounded in the past but consists today of tidally influenced areas where embankments are no longer maintained. Once important rice growing areas, the majority of these impoundments are managed primarily for recreational waterfowl hunting, wildlife sanctuaries, and other commercial, agricultural, and preservation uses.

(2) Proposals will be reviewed on a case-by-case basis according to the following standards:

(a) Permit applications to impound previously unimpounded wetlands or areas inundated by SAA waters shall be denied unless an overriding public interest is clearly demonstrated.

(b) The following factors will be considered in the review of permit applications for the impoundment of wetlands:

(i) Condition of existing dikes. Projects should require a minimum of new bank construction in wetlands.

(ii) Amount of wetlands proposed to be impounded.

(iii) The extent to which the project would block waters presently used for recreation or navigation by the public.

(iv) Degree of salinity of waters impacted by the proposed project.

(v) Quality of waters affected by the proposed project.

(vi) Primary purpose of the impoundment.

(c) All applications for the impoundment of wetlands must be accompanied by a detailed management plan setting forth the intent and method of managing the impounded areas. This plan must contain, but not necessarily be limited to, the following information:

(i) Applicant's objective(s) for the impoundment.

(ii) Schedule of water level manipulations.

(iii) Methods of pest and predator control (i.e., use of pesticides, prescribed burning, etc.).

(iv) Water quality management plan.

The management plan must be approved by the Council prior to permit issuance and shall become a condition of the permit.

**L. Drainage Canals or Ditches:**

(1) Drainage canals or ditches should follow the least damaging alignment and should meet one or more of the following needs:

(a) insect or vector control as a public health necessity;

(b) other public health purposes;

(c) the control of runoff as part of a comprehensive flood plain management plan.

(2) In addition to the application standards for dredging and filling and navigation channels and access canals, the following standards shall apply:

(a) Drainage canals and ditches shall not create dead water or stagnant pockets;

(b) To the extent feasible, the alignment of drainage canals should avoid the more productive wetlands;

(c) To the extent feasible, alignments of canals shall make maximum use of existing deep water channels to avoid unnecessary excavation;

(d) To the extent feasible, the quantity and quality of any discharged waters shall not result in extensive alteration of wetlands or the quality of coastal waters;

(e) All dredged material must be disposed of in accordance with the regulations under R.30-12(I).

**M. Nonwater-dependent Structures:** Nonwater-dependent structures, as defined in Section R.30-1(C), have been built in the past on pilings over coastal waters and tidelands critical areas. Nonwater-dependent structures shall be prohibited from being constructed over or in tidelands and coastal waters critical areas unless there is no significant environmental impact, an overriding public need can be demonstrated and no feasible alternatives exist.

### **30-13. SPECIFIC PROJECT STANDARDS FOR BEACHES AND DUNES.**

**A. Normal Maintenance and Repair of Habitable Structures:** Normal maintenance and repair of habitable structures is allowed without notice to Coastal Council. See R.30-14(D)(3)(a) and R.30-1(C)(28).

**B. Construction of New Habitable Structures:** If any part of a new habitable structure is constructed seaward of the setback line, the owner shall certify to the Coastal Council that construction meets the following requirements:

(1) The habitable structure is no larger than five thousand square feet of heated space.

(2) The structure is located as far landward on the property as practicable.

(3) A drawing has been submitted to the Coastal Council showing a footprint of the structure on the property, a cross section of the structure, and the structure's relation to property lines and setback lines which affect the property.

(4) No erosion control structure or device is incorporated as an integral part of the habitable structure pursuant to Section 48-39-290.

(5) No part of the building is being constructed on the primary oceanfront sand dune or seaward of the baseline.

**C. Additions to Habitable Structures:** Additions to habitable structures between the baseline and setback line are allowed provided the following requirements are met:

(1) The additions together with the existing structure do not exceed five thousand square feet of heated space.

(2) Additions to habitable structures comply with the conditions of new habitable structures as set forth in R.30-13(B).

**D. Repair and Renovation of Habitable Structures:** Repair and renovation of a habitable structure between the baseline and setback line damaged but not destroyed beyond repair, due to natural or man-made causes is allowed after notice and written documentation to Coastal Council.



#### **E. Replacement or Rebuilding of Habitable Structures:**

(1) A habitable structure in excess of five thousand square feet of heated space between the baseline and setback line which has been destroyed beyond repair due to natural causes may be replaced or rebuilt provided all of the following requirements are met:

(a) The total square footage of the replaced structure seaward of the setback line does not exceed the total square footage of the original structure seaward of the setback line.

(b) The linear footage of the replaced structure parallel to the coast does not exceed the original linear footage parallel to the coast.

(c) The replaced structure is no farther seaward than the original structure.

(d) Where possible, the replaced structure is moved landward of the setback line or if not possible, then as far landward as practicable, considering local zoning and parking regulations.

(e) The reconstruction is not seaward of the baseline unless permitted elsewhere in Section 48-39-250 through 48-39-360.

(f) Replacement of a habitable structure destroyed beyond repair due to man-made causes is allowed provided the rebuilt structure is no larger than the original structure it replaces and is constructed as far landward as possible, but the new structure must not be farther seaward than the original structure.

(2) A habitable structure up to five thousand square feet of heated space between the baseline and setback line which has been destroyed beyond repair by natural or man-made causes may be replaced or rebuilt provided the requirements of new habitable structures are met pursuant to R.30-13(B).

#### **F. Landscaping, Earthmoving and Fill for Landscaping.**

Within the beach/dune system, the installation of materials and associated amenities, moving of earth and placing of fill to accomplish these installations are allowed provided all of the following requirements are met:

(1) A comprehensive landscaping plan is submitted to and approved in writing by Coastal Council.

(2) The construction of a retaining wall which extends below existing grade will not be allowed;

(3) No sand from the beach shall be used as backfill;

(4) No native plant material growing on the frontal dunes may be disturbed unless it can be demonstrated that the condition of the dune will be improved;

(5) Only native salt tolerant plant species may be planted on dunes and shall be approved by Coastal Council staff;

(6) Adequate measures shall be taken to contain fill and irrigation runoff;

(7) No leveling of dunes is allowed;

(8) All work shall be in compliance with applicable local ordinances.

#### **G. Fences, Lighting, Trash Receptacles, Sidewalks, and Signs.**

Seaward of the setback line the placement, maintenance and repair, and replacement of fences, lighting, trash receptacles, sidewalks, and signs are allowed provided all of the following requirements are met:

(1) Construction shall not alter or impact existing sand dunes, dune vegetation, or the beach;

(2) Existing concrete sidewalks attendant to public streets may be replaced

within their original footprint;

(3) Trash receptacles (not dumpsters) may be attached to access ways or placed on the beach when the local government determines there is a need for such receptacles;

(4) Signs are limited to only those attached to attendant structures or mail receptacles or informational signs deemed necessary by federal, state, or local government for public health and safety. Advertisements are not allowed except on the walls or roofs of commercial structures;

(5) No fence may be used as a retaining wall;

(6) Any additional lighting seaward of the setback line shall be designed to shield the beach from illumination.

#### **H. Emergency Vehicle Access Ways, Non-attached Decks, Gazebos and Other Structures Which Enhance Beach Access.**

Seaward of the setback line the placement, maintenance and repair, and replacement of emergency vehicle access ways, decks, gazebos, and other structures which enhance beach access are allowed provided all of the following requirements are met:

(1) Emergency vehicle access ways shall:

(a) Be constructed at sites which preclude alteration of existing sand dunes and dune vegetation to the maximum extent practicable;

(b) Be constructed above the existing grade except for points of entry and exit;

(c) Be constructed of wood.

(d) Be located at least one-half mile from any other vehicle access to the beach unless, after review by Coastal Council, this provision is determined to be unreasonable due to site specific circumstances concerning health and safety needs;

(e) Be approved by the local government with jurisdiction;

(f) Provide for pedestrian access use.

(2) Non-attached decks, gazebos and other structures (other than walkways) which enhance beach access shall:

(a) Be constructed of wood.

(b) Not be constructed seaward of the no-construction zone;

(c) Not exceed one hundred forty-four square feet (this square footage is not included in the five thousand square-foot limitation on habitable structures);

(d) Be limited to no more than one of these structures per lot unless a limit of one would cause an unnecessary hardship as determined by the South Carolina Coastal Council;

(e) Not be put to a commercial use;

(f) Be in compliance with applicable local ordinances.

#### **L. The Construction and/or Repair of Drives and Parking Lots.**

Within the setback area, the construction and/or repair of drives and parking lots within the setback area is allowed provided all of the following requirements are met:

(1) On front row lots, new driveways and/or parking lots shall not extend seaward of habitable structures;

(2) Existing drives and/or parking lots shall not be expanded beyond their original size;

(3) No sand from the beach may be used during construction and/or repair;

(4) No alteration of the primary oceanfront sand dune or its dune vegetation is

allowed;

(5) At the Coastal Council's discretion, a Stormwater Management Plan may be required;

(6) The work shall comply with applicable local ordinances;

(7) Best Management Practices (BMP's) such as hay bales, silt fences, mulches, or other appropriate measures shall be used as necessary during the construction phase to prevent sedimentation reaching adjacent waters and wetlands. Upon project completion the disturbed areas shall be stabilized as soon as possible with grass or other appropriate vegetative cover;

(8) No new driveway or parking lot may be constructed seaward of the baseline unless a special permit as provided in Section 48-39-290(D) is obtained.

**J. Installation or Repair of Underground and Overhead Water, Sewer, Gas, Electrical, Telephone Lines and Cable Service Lines.**

Within the setback area the placement, maintenance, repair, and replacement of service lines are allowed provided the following requirements are met:

(1) All service lines shall be located as far landward as possible on each individual lot;

(2) Lines, junction boxes, poles, and accessory features will be relocated landward as far as possible in the event there is a need for replacement;

(3) Dunes allowed to be altered during construction shall be reconfigured and revegetated in accordance with Coastal Council guidelines;

(4) All work shall be in compliance with applicable local ordinances;

(5) A comprehensive plan for new or replacement utilities shall be approved in writing by the Council.

**K. Drainage Structures.**

Seaward of the setback line the placement, maintenance and repair, and replacement of drainage structures are allowed provided the following requirements are met:

(1) For new construction, the structures shall be part of a Coastal Council approved storm water management plan or drainage plan which must be submitted either prior to or at the time the permit application is submitted.

(2) The replacement of drainage structures shall not involve an increase in the size of the existing structures, unless this change is approved by the Coastal Council as a part of the Stormwater Management Plan or drainage plan.

(3) Any disturbance to the dunes and dune vegetation shall be restored to pre-project conditions as soon as possible, and the restoration shall be approved by the Coastal Council staff.

(4) The drainage structure shall comply with the local drainage plan for the area seaward of the setback line.

(5) New drainage structures may be placed on the beach only if:

(a) Existing structures are eliminated;

(b) No feasible alternative exists.

(6) All work shall be in compliance with applicable local ordinances.

(7) Areas disturbed during construction shall be revegetated to the Coastal Council's satisfaction.

**L. Sand Fences, Minor Beach Renourishment, Dune Revegetation.**

In an effort to provide beachfront property owners with passive, low-cost dune stabilization methods, the placement, maintenance and repair, and replacement of sand fencing,

dune revegetation, and minor renourishment may be allowed seaward of the setback line under the following conditions (Note: These steps may not be viewed as being undertaken for erosion control but rather as dune enhancement and stabilization measures. Since a broad beach and a healthy dune provide a storm buffer, these methods should aid the natural processes affecting the beach/dune system.):

(1) Sand fencing requirements:

- (a) The fence material shall be degradable.
- (b) The fences shall be installed according to guidelines established by Coastal Council staff.
- (c) The fences shall be installed in a manner so as not to impede turtle nesting. The Coastal Council may require sand fences be moved or removed entirely if the fences are found to impact turtle nesting activities or, in the Coastal Council's opinion, have the potential to impact turtle nesting activities.
- (d) The fence shall be placed above the highest up rush of the waves as determined by Coastal Council staff.
- (e) The fencing shall not impede public access.
- (f) The fence shall be installed with the understanding that this is a temporary measure.
- (g) If fence material is damaged, debris shall be removed expeditiously from the beach area by the owner.
- (h) If the Coastal Council determines that the fence has a detrimental impact to the beach/dune system, it shall be removed by the owner as directed by the Coastal Council.

(2) Revegetation requirements:

Property owners are encouraged to plant vegetation as a means of stabilizing oceanfront dunes. The roots of plant material tend to bind sand to dunes, while plant foliage serves to trap wind blown sand. Suggested plant varieties include, but are not limited to, American beach grass (*Ammophila breviligulata*), bitter panicum (*Panicum amarum*), and sea oats (*Uniola paniculata*).

(a) Vegetation shall be planted in early spring, before May 30 if possible, and shall be planted, irrigated and fertilized according to nursery instructions or Coastal Council's "How to Build a Dune" guidelines.

(b) Coastal Council staff shall inspect the site first and determine that there is a need for vegetative stabilization.

(3) Minor renourishment is allowed in an attempt to build and maintain healthy dunes. Minor renourishment requirements are:

(a) Sand shall be compatible in size and grain color, shall be from an upland source, and its use approved in writing by Coastal Council staff.

(b) Minor renourishment shall be performed between November 1 and March 1.

(c) Coastal Council staff shall inspect the site and establish that there is a need for the project.

(d) All projects shall be in compliance with applicable local ordinances.

**M. Returning Sand to the Beach/Dune System.**

Seaward of the setback line sand that has drifted out of this critical area may be returned to it if the following requirement is met:

(1) A description of the proposed work shall be submitted to and approved in writing by the Coastal Council prior to any initiation of work.

#### **N. Erosion Control.**

##### **(1) Groins and Jetties:**

Groins and jetties interfere with the natural transport of sediment and this is not always beneficial. Therefore, applications for these structures shall be carefully reviewed to determine their overall effect. The following standards shall apply:

(a) Groins shall be constructed so that they can be altered or removed if they cause undesirable effects;

(b) Where feasible, jetties shall be designed to provide public recreational fishing opportunities;

(c) Construction activities shall be scheduled so as not to interfere with nesting and brood-rearing activities of sea birds, sea turtles, or other wildlife species.

##### **(2) Offshore Breakwaters:**

Permits for offshore breakwaters may be issued only after careful review and in each case with the provision for removal of the structure to mitigate harmful effects which might be manifested after construction.

##### **(3) Protection of Beaches and Artificial Beach Nourishment:**

The following requirements apply to the Coastal Council's consideration of projects for the nourishment of beaches:

(a) Careful study shall be given to the type (grain size and quality) of material most suitable for nourishment of a particular beach area;

(b) Borrow areas and sand for artificial nourishment shall be carefully selected to minimize adverse effects. Where possible, artificial beach nourishment shall be performed in concert with inlet stabilization or navigation projects;

(c) Dredging in the borrow areas shall not be in conflict with spawning seasons or migratory movements of significant estuarine or marine species. Nourishment of beach areas shall be scheduled so as not to interfere with nesting and brood-rearing activities of sea birds, sea turtles, or other wildlife species;

(d) All policies concerning dredging and filling cited at R.30-12G shall be applied to beach nourishment proposals;

(e) Nourishment projects shall have a minimum projected life of ten years.

##### **(4) Erosion Control Structures or Devices**

(a) No new erosion control structures or devices are allowed seaward of the setback line except to protect a public highway which existed on June 25, 1990.

(b) No erosion control structures or devices may be incorporated as an integral part of a habitable structure.

(c) Erosion control structures or devices must not be enlarged, strengthened, or rebuilt but may be maintained in their present condition if not destroyed more than the percentage allowed in Section 48-39-290(B)(2)(b)(i), (ii) and (iii). Repairs must be made with materials similar to those of the structure or device being repaired.

(d) Erosion control structures or devices determined to be destroyed more than the percentage allowed in Section 48-39-290(B)(2)(b)(i), (ii) and (iii) must be removed at the owner's expense. Nothing in this section requires the removal of an erosion control structure or device which existed on July 1, 1988, that protected a public highway.

(e) Erosion control structures or devices which existed on June 25, 1995;

1990, must not be repaired or replaced if destroyed:

- (i) more than eighty percent above grade through June 30,
- (ii) more than sixty-six and two-thirds percent above grade from July 1, 1995, through June 30, 2005.

- (iii) more than fifty percent above grade after June 3, 2005.

[See R.30-14(D)(3)(c) and (d) for damage assessment.]

#### **O. Sand Dune Management.**

(1) Walkways over dunes, as provided in §48-39-130(D), shall meet the following requirements:

- (a) Be constructed of wood;
- (b) Have a maximum width of six feet;
- (c) Conform with the contour of the dunes;
- (d) Displace no sand in a critical area;
- (e) Be constructed with as little environmental damage as possible;
- (f) Not be located within fifty feet of another walkway on the same parcel of property;
- (g) Be limited to no more than one of these structures per lot unless a limit of one would cause an unnecessary hardship as determined by the Coastal Council.

(2) Projects to protect, restore, or build dunes shall conform to the following standards:

- (a) Except for walkways over sand dunes, as provided in §48-39-130(D), no alteration of a sand dune in the beach/dune system shall be permitted unless it can be demonstrated that there shall be no permanent deleterious effects.

- (b) The use of natural beach vegetation to trap wind blown sand is encouraged. Where pedestrian traffic has destroyed natural vegetation, the use of temporary sand fencing or its equivalent may be permitted.

- (c) The construction of a dune by using beach sand and mechanical equipment shall be permitted only for restoration after unusual damage, such as that caused by a hurricane.

- (d) Artificial dunes shall not be constructed seaward of the normal spring high-tide line.

- (e) Any artificially constructed dunes shall be aligned to the greatest extent possible with existing dune ridges and shall be of the same general configuration as adjacent dunes.

#### **P. Nonwater-dependent Structures.**

Nonwater-dependent structures, including but not limited to residences, restaurants, motel/hotel facilities, other commercial activities, and parking facilities, have been constructed in the past within the beach/dune system. The siting of new nonwater-dependent structures seaward of the baseline is prohibited unless a special permit is obtained pursuant to Section 48-39-290(D) and R.30-15(F) herein.

#### **Q. Golf Courses.**

(1) Golf Courses are allowed seaward of the baseline because they can adjust to a changing shoreline more readily than other types of land uses. Sandscraping or sandbagging is not allowed as protection for golf courses.

(2) Specific standards which shall apply are as follows:

- (a) Leveling or damaging of dunes or dune fields is prohibited.
- (b) Golf courses should be located as far landward as practicable to

minimize encroachment into the setback area.

(c) Any lighting seaward of the setback line must be low intensity and adequately shielded to prevent impact on sea turtle nesting.

(d) Measures must be taken to protect the integrity of the primary oceanfront sand dune from foot traffic. These measures may include:

(i) courses designed in a manner that will minimize adverse effects on the sand dunes;

(ii) physical barriers such as sand fencing placed at the landward trough of the dune;

(iii) certain types of vegetation that would discourage pedestrian traffic, or;

(iv) any other measures Coastal Council may deem necessary.

#### **R. New Fishing Piers:**

(1) New fishing piers are allowed seaward of the baseline in order to provide public access to our coastal resources.

(2) Specific standards which shall apply are as follows:

(a) They must be dedicated to public use. A reasonable fee may be charged to the public but the general public may not be excluded from use.

(b) No restaurant, arcade or other nonwater-dependent structure shall be placed on the pier seaward of the baseline.

(c) The height of the pier stringers and spacing of the piles must be able to accommodate vehicular traffic associated with emergency operations and renourishment projects.

### **R. 30-14 ADMINISTRATIVE PROCEDURES.**

#### **A. Procedures for Local Beach Management Plan Approval and Amendments [§48-39-350(A)].**

(1) South Carolina local governments with jurisdiction fronting the Atlantic Ocean shall submit to Coastal Council by no later than July 1, 1990, a local beach management plan after the local government has afforded the opportunity for adequate public review.

(2) Upon receipt of the local plan, the Coastal Council shall:

(a) Afford the public a thirty day comment period;

(b) Afford the opportunity for a public hearing on the local beachfront management plan;

(c) After considering all comments, approve, modify or remand the local beachfront management plan.

(3) The Coastal Council shall issue a public notice of the approval of any local beach management plan or amendment thereto. The implementation date of the local beach management plan or amendment thereto will be specified in such public notice.

#### **B. Procedures for State Implementation of Local Responsibilities [§48-39-350(B)].**

(1) If a local government fails to develop and implement a local beach management plan as required by §48-39-350, the Coastal Council shall implement the local government's responsibilities by:

(a) Issuing public notice that the Coastal Council has found that the local government has failed to develop and implement a local beach management plan as

required;

- (b) Carrying out the tasks enumerated in §48-39-350(A)(1-10);
- (c) Providing a thirty day public comment period for public review of Coastal Council's proposed local beach management plan;
- (d) Affording the opportunity for a public hearing;
- (e) After reviewing all public comments, modify and/or adopt and implement the local plan.

(2) The Coastal Council may delegate responsibility for the implementation of the Coastal Council sponsored and approved local beach management plan to the local government, but the Coastal Council shall have the right to assume responsibility for administering and enforcing the plan if the local government fails to do so.

**C. Procedures for State/Local Coordination During and in Response to Emergency Situations (Sections 48-39-320 & 350).**

The issuance of a Coastal Council emergency order automatically supersedes any local emergency order for the same emergency situation.

**D. Procedures for Determining Destroyed Beyond Repair (Section 48-39-290(B)).**

(1) The Coastal Council shall be required to make a determination as to whether or not a habitable structure is destroyed beyond repair under Section 48-39-290 in any of the following cases:

- (a) Upon the written request of an owner of the habitable structure or local government official;
- (b) Upon its own election;
- (c) As part of a damage assessment effort conducted solely by the Coastal Council or in cooperation with a local government in response to an emergency situation.

(2) The Coastal Council shall provide a copy of its determination of whether a habitable structure is destroyed beyond repair to the property owner and the local government with jurisdiction over such habitable structure.

(3) The Coastal Council shall employ the following procedures in determining whether a structure is destroyed beyond repair:

- (a) **Habitable Structure:**
  - (i) Following a natural disaster, Coastal Council shall coordinate a post-storm damage appraisal with the affected unit of local governments. The Coastal Council will develop guidelines pursuant to Section 48-39-270(11) for performing damage appraisals. The Coastal Council staff shall make the initial damage appraisal. When appropriate, the Coastal Council may use the property owner's insurance adjustor's figures to determine the damage.
  - (ii) If an owner disagrees with the appraisal of the Coastal Council, he may obtain a second appraisal to evaluate the damage to the building. An owner who disagrees with the appraisal of the Coastal Council must notify the Coastal Council in writing, within 90 days of receipt of the Coastal Council's determination that he intends to obtain an appraisal. If the two appraisals differ, then the two appraisers must select a third appraiser. If the two appraisers are unable to select a third appraiser, the Clerk of Court of the county in which the structure lies must make the selection. All third appraisers must be registered, professional engineers, registered architects or licensed adjustors. All third appraisers must not have been involved in either the insurance adjustment of the property or the first or second appraisal and the cost of the third appraisal will be divided equally between the



Coastal Council and the property owner. In no event may the property owner begin rebuilding or repairing (other than emergency repairs) a structure until the appraisal process described herein has been completed. Nothing in this section prevents a court of competent jurisdiction from reviewing, de novo, the appraisal upon the petition of the property owner.

(b) Pools:

(i) Following a natural disaster, Coastal Council shall coordinate a post-storm damage assessment with the affected unit of local government. The Council will develop guidelines pursuant to Section 48-39-270(11) for performing damage appraisals. The Coastal Council shall make the initial assessment.

(ii) If an owner disagrees with the appraisal of the Coastal Council, he may obtain an appraisal to evaluate the damage to the pool. An owner who disagrees with the appraisal of the Coastal Council must notify the Coastal Council in writing, within 90 days of receipt of the Coastal Council's determination, that the owner intends to obtain an appraisal. If the two appraisals differ, then the two appraisers must select a third appraiser. If the two appraisers are unable to select a third appraiser, the Clerk of Court of the county where the pool lies must make the selection. All third appraisers must be registered, professional engineers and the cost of the third appraisal will be equally divided between the Coastal Council and the property owner. In no event may the property owner begin rebuilding or repairing a pool (other than emergency repairs) until the appraisal process described herein has been completed. Nothing in this section prevents a court of competent jurisdiction from reviewing, de novo, the appraisal upon the petition of the property owner.

(c) Seawalls and Bulkheads: In determining whether a seawall or bulkhead as defined in Section 48-39-270(1)(a) and (b) is destroyed more than eighty percent above grade through June 30, 1995, more than sixty-six and two thirds percent above grade from July 1, 1995, through June 30, 2005, and more than fifty percent above grade after June 30, 2005, the damage assessment shall be accomplished as follows:

Damage to seawalls and bulkheads will be judged on the percent of the structure remaining intact at the time of damage assessment. The portion of the structure or device above grade parallel to the shoreline must be evaluated. The length of the structure or device parallel to the shoreline still intact must be compared to the length of the structure or device parallel to the shoreline which has been destroyed. The length of the structure or device parallel to the shoreline determined to be destroyed divided by the total length of the original structure or device parallel to the shoreline yields the percent destroyed. Those portions of the structure or device standing, cracked or broken piles, whalers, and panels must be assessed on an individual basis to ascertain if these components are repairable or if replacement is required.

If the property owner disagrees with the assessment of a registered professional engineer acting on behalf of the Coastal Council, he may obtain an assessment by a registered professional engineer to evaluate, in the same manner set forth herein, the damage to the structure or device. An owner who disagrees with the assessment of the Coastal Council must notify the Coastal Council in writing, within 90 days of receipt of the Coastal Council's determination, that he intends to obtain an independent assessment. If the two assessments differ, then the two engineers who performed the assessment must select a registered professional engineer to perform the third assessment. If the first two engineers are unable to select an engineer to perform the third assessment, the Clerk of Court of the county where the structure or device lies must make the selection of a registered professional engineer. The cost of the third engineer will be equally divided between the Coastal Council

and the property owner. The determination of the percentage of damage by the third engineer is conclusive. In no event may the property owner begin rebuilding or repairing a seawall or bulkhead until the appraisal process described herein has been completed. The determination of the degree of destruction must be made on a lot by lot basis by reference to county tax maps.

(d) **Revetments:** Revetments must be judged on the extent of displacement of the stone, the effort to return these stones to the pre-storm event configuration of the structure or device, and the ability of the revetment to retain backfill material at the time of the damage assessment. If the property owner disagrees with the assessment of a registered professional engineer acting on behalf of the Coastal Council, he may obtain an assessment by a different registered professional engineer to evaluate, as set forth in this item, the damage to the structure or device. An owner who disagrees with the appraisal of the Coastal Council must notify the Coastal Council in writing, within 90 days of receipt of the Coastal Council's determination, that the owner intends to obtain an appraisal. If the two assessments differ, then the two engineers who performed the assessment must select a registered professional engineer to perform the third assessment. If the first two engineers are unable to select an engineer to perform the third assessment, the Clerk of Court of the county where the structure or device lies must make the selection of a registered professional engineer. The cost of the third engineer will be equally divided between the Coastal Council and the property owner. The determination of the percentage of damage by the third engineer is conclusive. In no event may the property owner begin rebuilding or repairing a structure until the appraisal process described herein has been completed. The determination of the degree of destruction must be made on a lot by lot basis by reference to county tax maps.

**E. Procedures for Adopting Baselines and Erosion Rates (Section 48-39-280).**

(1) Following the establishment of the interim baselines, erosion rates, and setback lines pursuant to Section 48-39-280(C) and any amendments or revisions thereto, the Coastal Council will adopt final baselines, erosion rates, and setback lines as part of the state comprehensive beach management plan pursuant to Section 48-39-280. The following procedure will be used for the establishment of final baselines, erosion rates, and setback lines:

(a) The proposed baseline, erosion rate, and setback line for a region, island or part thereof, or other geographic area of South Carolina's ocean shoreline shall be made available to the public for inspection at each of the Coastal Council's offices;

(b) The Coastal Council shall afford the public a thirty-day comment period;

(c) The Coastal Council shall afford the opportunity for a public hearing.

(2) The Coastal Council shall, following the consideration of all public comments, adopt in final form the baselines, erosion rates, and setback lines and shall include such information in the state plan.

**F. Procedures for Appealing Baselines and Erosion Rates [Section 48-39-280(E)].**

(1) Any coastal riparian landowner adversely affected who feels that the setback line, baseline or erosion rate as adopted by the Coastal Council is in error, upon submission of substantiating evidence, shall be granted a review of the setback line, baseline, erosion rate, or a review of all three. The Permitting Committee of the Coastal Council shall hear all such requests for review.

(2) The landowner may appeal the decision of the Permitting Committee according to the general provisions of R.30-6. However, no intervenors are allowed to join

the appeal and no public notice is required for appeals under this section.

**G. Procedure for Movement of Baseline After Renourishment.**

(1) Coastal Council must receive a petition from the local government; or the landowners with notice to the local government, before the baseline can be moved pursuant to Section 48-39-280(A)(4). The petition cannot be submitted until the permitted beach nourishment project, which must have a minimum five-year design life, has been completed. The local government must certify to the Coastal Council that the proposal to move the baseline is consistent with the objectives and policies of its local comprehensive beachfront management plan.

(2) Petitioner must demonstrate an ongoing commitment to fund a future renourishment project with the same or greater design life than the original project using an acceptable funding option.

(3) The Petitioner must prove that it possesses or has obtained all necessary legal authority to perform the nourishment project in the future, excluding environmental regulatory permits.

(4) Petitioner must submit survey data in the following format to demonstrate the beach has been stabilized by the nourishment project:

(a) A minimum of three sets of survey data from the stations (monuments) designated in the project permit must be submitted. This will include all stations within the construction limits (maximum allowable profile spacing is 1,000 feet) and stations within 2,000 feet of each end of the project. These surveys will be taken at three month intervals, beginning at the time of project construction completion.

(b) Semi-annual surveys of the project beach during years two and three after project construction must be performed and submitted to Council to document beach stability.

(5) Coastal Council will evaluate the survey data to determine beach stability. Stability is defined in (10) below. If the beach has not stabilized in the first six months following construction, additional subsequent surveys will be evaluated to determine stability.

(6) The project must be constructed according to the permit design at an elevation which will maintain a dry sand beach. The maintenance of the dry sand beach will be evaluated in the same manner as stability, using the survey data.

(7) The Petitioner must show an ongoing financial commitment to renourishment which will stabilize and maintain the dry sand beach at all stages of the tide for the foreseeable future. The Council defines foreseeable future as at least ten years from the date the original project achieved stability.

(8) The Coastal Council will move the baseline when all of the above criteria have been met. The new baseline will be located on the landward edge of the existing erosion control device or at a position determined by Coastal Council using the method described in Section 48-39-280(A)(1).

(9) No new construction may occur in the area between the former baseline and the new baseline for three years after the initial beach nourishment project has been completed. The project is "completed" when it has stabilized in the manner described in (10) below. Reconstruction of habitable structures and pools is not considered new construction for purposes of this section. Additions are considered new construction.

(10) The following definition will be used by Coastal Council to define

“stability”: A renourished beach is stabilized when field observations and quarterly surveys of the project beach, conducted for a minimum of six months following construction completion, demonstrate only normal long-term erosion patterns and losses are affecting the nourished beach. Council may consider any or all of the following in determining stability: profile characteristics and changes (volumetric and contour changes) and sediment analyses.

#### **R.30-15. ACTIVITIES ALLOWED SEAWARD OF BASELINE.**

##### **A. Wooden Walkways:**

Wooden walkways no larger in width than six feet are the only structures allowed seaward of the baseline that do not require a Coastal Council permit.

##### **B. Small Wooden Decks:**

Wooden decks seaward of the baseline require a Coastal Council permit. These decks should be no larger than one hundred and forty-four square feet.

##### **C. Fishing Piers:**

(1) New fishing piers require a Coastal Council permit and must be open to the public. See R.30-13(R).

(2) Those fishing piers with their associated structures including, but not limited to, bait shops, restrooms, restaurants, and arcades which existed September 21, 1989, may be rebuilt if they are constructed to the same dimensions and utilized for the same purposes and remain open to the public. In addition, those fishing piers with their associated structures which existed on September 21, 1989, that were privately owned, privately maintained, and not open to the public on this date may be rebuilt and used for the same purposes if they are constructed to the same dimensions. A Coastal Council permit is required.

##### **D. Golf Courses:**

Golf Courses require a Coastal Council permit pursuant to the criteria set forth in R.30-13(Q).

##### **E. Normal Landscaping:**

Normal landscaping requires a Coastal Council permit pursuant to the criteria set forth in R.30-13(F).

##### **F. Special Permits:**

The Coastal Council's Permitting Committee is the committee to consider applications for special permits.

Special permits are to be issued only in situations where without such a permit, the property owner would have no reasonable use of his property, or when an overriding public benefit can be demonstrated.

When issuing special permits, the Permitting Committee shall consider the legislative findings and policies as set forth in Sections 48-39-30, 48-39-250 and 48-39-260. Specifically, the following criteria shall serve as guidelines when issuing special permits:

(1) The property suffers a singular disadvantage through the operation of this Act, which disadvantage does not apply to neighboring properties, and because of this disadvantage, the property owner is unable to make any reasonable use of the affected property.

(2) A structure cannot be constructed or reconstructed on a primary oceanfront dune or on the active beach, and in the event that the beach erodes so that in the future the permitted habitable structure is located on the active beach, the property owner agrees to remove the structure at his own expense.

(3) The decision to grant a special permit shall not be based purely on economic considerations.

(4) There shall be no adverse impact on the stated policies of the Beachfront Management Act, including the policies protecting the sand dunes and preservation of the dry sand beach.

(5) The granting of a special permit shall not create a situation contrary to the public health, safety or welfare.

(6) In determining whether or not a permit is contrary to the public health, safety or welfare, the Permitting Committee shall consider a) the erosion rate at the site, b) how soon the structure will be located on the active beach, c) whether or not the proposed structure meets American National Standards Institute building standards, and/or d) the potential cumulative effect that similar structures will have upon the beach/dune system.

(7) Necessary components of habitable structures, such as sewer lines, septic tanks and utilities, do not require separate special permits. However, decking, patios, drive-ways, etc., are not considered as necessary components of habitable structures and therefore these items must be shown on the permit application.

**G. Pools:**

Pools may be reconstructed if they are landward of an existing functional erosion control structure or device provided a Coastal Council permit is obtained.

**R.30-16. DOCUMENTATION REQUIREMENTS BEFORE COMMENCING ACTIVITIES BETWEEN SETBACK LINE AND BASELINE.**

**A. Notification Procedure:**

(1) Activities requiring written notification to and written response from Coastal Council:

(a) Construction of new habitable structures at least partially seaward of the forty year setback line.

(b) Additions to habitable structures.

(c) Replacement of habitable structures.

(d) Construction of new pools between the baseline and the setback line and landward of an erosion control device which existed June 25, 1990.

(e) Replacement of pools.

(2) Information required:

(a) New habitable structures and additions to habitable structures:

(i) heated square footage of the proposed habitable structure or proposed addition.

(ii) plat showing footprint and cross section showing foundation of new structure as located on lot. Also, all property lines, setback lines and any parking requirements which may be in effect must be shown. The structure or addition must be located as far landward on the property as practicable as determined by Coastal Council.

(iii) for additions, the plat must clearly differentiate between the original structure and proposed additions.

(b) Replacement structures:

(i) heated square footage of original and proposed replacement structure.

(ii) linear footage along the coast of proposed replacement and original structure.

(iii) plat showing footprint and cross section showing foundation of proposed replacement structure.

(c) Replacement of destroyed pools will require a plat showing footprint and cross section of the original and replacement pool.

### **R.30-17. APPLICATION PROCEDURES FOR GENERAL PERMITS PURSUANT TO SECTION 48-39-290(B)(4).**

#### **A. General Guidelines:**

Applicants for general permits shall be required to submit the following information:

(1) Completed Coastal Council application form.

(2) Proof that the adjacent property owners and the local governmental body having jurisdiction over the site have been notified of the proposed activity by certified mail through the use of the following notification:

(Applicant) has applied to the South Carolina Coastal Council for a General Permit to (description of activity) at (address or legal description of property) in (city and county). Comments on this application should be mailed to South Carolina Coastal Council at the following address: 4130 Faber Place, Suite 300, Charleston, South Carolina 29405, by (insert date, fifteen days after date of certified mailing).

The applicant must furnish the certified mail stubs to the South Carolina Coastal Council at the time of mailing. The General Permit cannot be issued until the fifteen day comment period has expired.

(3) Proof of publication that the above public notice was placed in a newspaper published in the county where the proposed activity is taking place must be forwarded to the Coastal Council office processing the application. General Permits cannot be issued until the fifteen day comment period as advertized in the newspaper has expired.

(4) A brief description of the proposed work, its purpose and intended use. A drawing or plat may be required as well as a description of the method of construction, and identification of materials and equipment to be used.

Information on activities eligible for General Permits may be obtained from Coastal Council.

### **R.30-20 BEACH RESTORATION FUND.**

**A. Funding for Projects:** Beach restoration projects will follow a cyclical pattern that is conditioned by the availability of funds. The Council will make an initial announcement when applications are to be submitted. The announcement will specify the time of submission and the format to be used. There will be at least a 90 day period for receiving applications. Projects that are not funded during the initial cycle will be eligible for consideration at the next cycle which will start when additional funds become available. Communities will be given the opportunity to update their applications for subsequent cycles to show any changed conditions.

**B. Application Process:** Applications for beach nourishment must be submitted to the Coastal Council. The applications will be reviewed by the staff for completeness and eligibility requirements. The applications will then be considered by the Administration and Finance Committee of the Coastal Council, where input from the applicant and the public will be solicited and considered. In evaluating the project applications the Council will be guided by the legislated criteria and guidelines, and, the following consideration:

- (1) Environmental impact of the project.
- (2) Public recreational benefit.

- (3) Expected useful life of project.
- (4) Protection benefit of project.
- (5) Extent of support for project.

**C. Ranking of Projects:** The Committee will rank the projects in priority sequence and will make a recommendation to the Council. Council approval of the Committee recommendation will establish project priorities and subsequent commitment of funds as funds become available.

**D. Necessary Permit Application Information:** Any eligible local government desiring to submit an application for Beach Restoration Funds should submit a completed permit application to the South Carolina Coastal Council. The following information should be submitted on or attached to the permit application form.

- (1) The name, address, and telephone number of the local government making the application and the name and telephone number of the designated liaison agent.
- (2) The name, address, and telephone number of the project consulting engineer or other agent.
- (3) A resolution adopted by the applicant's governing body approving the submittal of an application for beach restoration funds, and committing to the local funding requirements necessary to complete the project.
- (4) The Chief Executive Officer of the governing body should sign the application.
- (5) A narrative description of the project to include:
  - (a) Project limits.
  - (b) Quantity of fill.
  - (c) Borrow sites.
  - (d) Expected design life of project.
  - (e) Project construction duration and time of year.
  - (f) Estimated first cost and annual maintenance costs.
  - (g) A statement as to the source and availability of all local, state, and federal funds for the project.
  - (h) Benefits to be realized by the project.
  - (i) Environmental impacts.
  - (j) Public access to renourished area.
- (6) Map or maps showing:
  - (a) Project site plan and borrow area locations.
  - (b) Upland ownership of property, indicating federal, state, local, or private ownership.
  - (c) Public access points.
  - (d) Public parking areas.
  - (e) Private parking areas.
  - (f) Baseline and setback line(s).
- (7) Any engineering studies that have been completed concerning the project, and plans for post-project monitoring.
- (8) Approved beach restoration plan for the community which includes an analysis of beach erosion control alternatives.

**E. Minimum Regulatory Requirements:** All applications will be evaluated to determine if the project meets the minimum regulatory requirements and then ranked on a relative basis according to the five considerations listed in 20.F. The minimum regulatory re-

quirements are:

(1) Prior to July 1, 1991:

- (a) A state-approved shorefront management plan or a state-approved local nourishment plan, and
- (b) A state and locally approved beach access plan with an implementation schedule. The plan must include an inventory of current access and parking, an analysis of current and future demand, and a strategy for enhancing public access and parking, and
- (c) A complete application.

(2) After July 1, 1991:

- (a) A state approved beach management plan developed in accordance with Section 48-39-350 of the South Carolina Coastal Zone Management Act, as amended, and
- (b) A complete application.

**F. Project Evaluation Considerations:** If the project meets the minimum regulation requirements, the project is then evaluated and ranked using the following considerations:

- (1) Environmental impact of project.
- (2) Public recreational benefit.
- (3) Expected useful life of project.
- (4) Protection benefit of project.
- (5) Extent of support for project.

**G. Administration of the Project:** The execution and administration of the project will be coordinated by the Coastal Council according to regulations of the State Budget and Control Board regarding procurement of architectural/engineering services and for construction of permanent improvements projects.



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